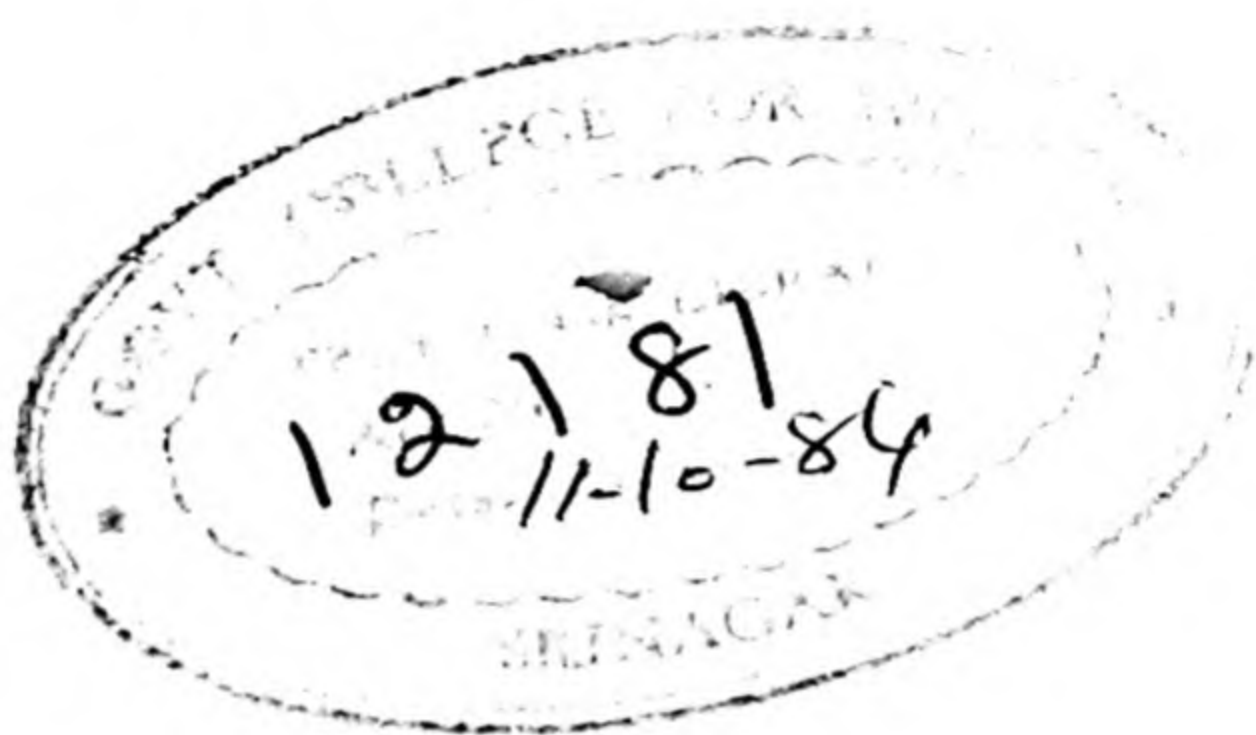


GOVERNMENT AND POLITICS OF INDIA

Government and Politics of India



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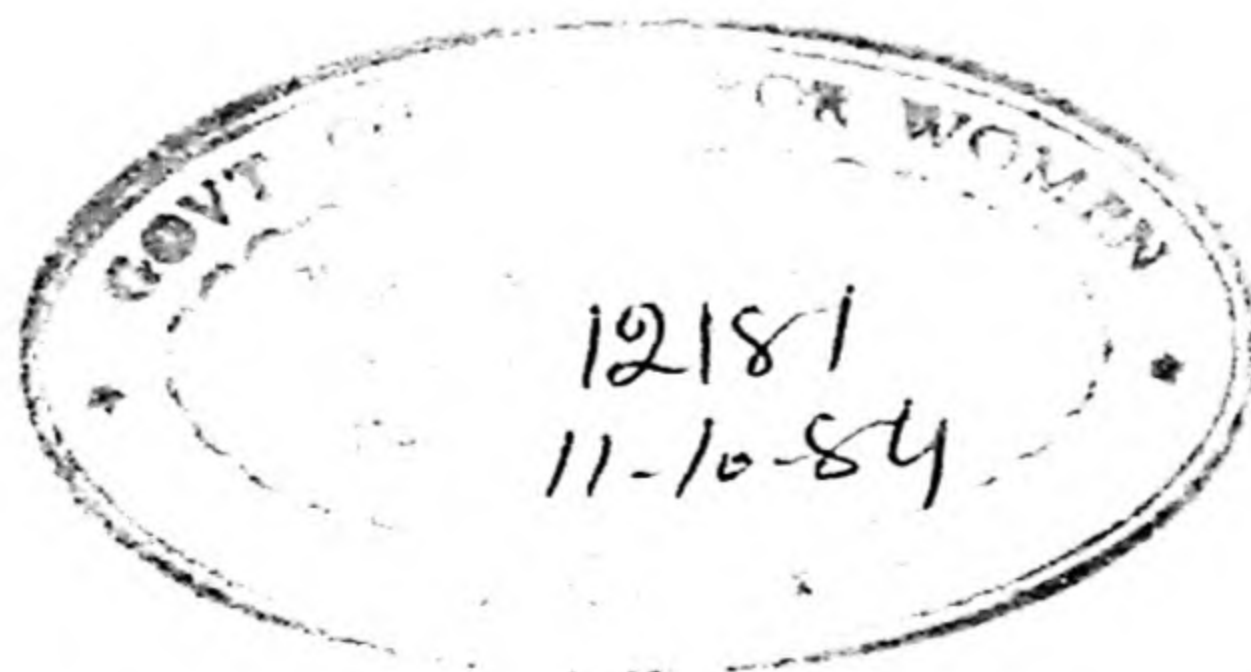
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CHAPTER 1

The Foundations

I. Theoretical Foundation : Indian Political System

Political System. The concept of 'political system' has acquired wide currency, because it directs our attention to the entire scope of political activities within a society, regardless of where in the society such activities may be located. A political system, through the governmental mechanism in particular, performs the functions of producing binding and legitimate decisions. The basic elements of a political system are : (1) Power—the distribution of resources among competing groups through which decisions may be influenced ; (2) Interests—sets of goals through the pursuit of which individuals or groups become actors in the political process ; (3) Policies—the public outcome of inter-action between power and interests, usually in the form of public legislation ; and (4) Political culture—the subjective orientation of the individual to the political system.¹

According to Almond political system is that system of interaction to be found in all independent societies which perform the functions of integration and adaptation by means of the employment or threat of employment, of more or less legitimate physical compulsion. 'The political system is the legitimate, order-maintaining or transforming system in the society... legitimate force is the thread that runs through the inputs and outputs of the political system, giving its special quality and salience and its coherence as a system.'²

Systems Approach. General systems theory originated in a movement aimed at the unification of science and scientific analysis. The most recent and fundamental idea which modern political scientists have introduced in the study of politics is that political

¹Abcarian and Masannat, *Contemporary Political System*, pp. 10-1.

²Almond and Coleman, *The Politics of the Developing Areas*, p. 7.

life should be seen as a 'system' or a set of systems of interaction. From this has developed the notion that political analysis is no more than a form of 'systems analysis'. But a political system must be seen as an open system ; that is, it is open to outside influences. That a system must be organised or have organisation and that its parts must be connected, these properties are necessary to any thing defined as a system. Whatever the differences between proponents of systems analysis, the idea that political life, and thus the societies of which they are part, are 'coherent' systems with interdependent parts is common to them all. The model of the social system and the basic notion of function are both sub-divided into a series of sub-system functions, which largely correspond to conventional classification of social behaviour. A sub-system is simply a system which may be discerned to form part of some large system or whole.

Political Structures and Functions. Harry Eckstein says : 'We tend no longer to think of political systems solely as sovereign states and their formal sub-divisions but as any 'collective decision-making structure', or as any set of structures for 'authoritatively allocating social values', or as structures that perform the function of 'maintaining the integration of society' or as structures that perform the functions of 'the integration and adaptation of societies by means of the employment, or threat of employment' of more or less physical compulsion, and in many other ways in similar vein'.¹

According to Almond, all specifically political systems have four main structures, which may be defined as 'legitimate patterns of interaction'. The political structures perform a number of functions ; they are multi-functional. In various political systems, these functions may be performed by different kinds of political structures. Almond further says that all systems perform two basic sets of functions : input and output functions. For him, the political system is made up of a set of roles, structures and sub-systems, whose interactions are affected to a great extent by the psychological attributes and propensities of the actors involved. Moreover, the process can be seen in relation to its environment, so that the whole range of interactions can be interpreted as consisting of either inputs from the environment from within the political system itself, or the conversion of these inputs within the system in outputs to the environment. Through time the outputs may produce environ-

¹Eckstein and Apter (eds.), *Comparative Politics : A Reader*, pp. 26-27.

mental changes, which may lead to new demands being made on the system or the changes in the system itself. It is this notion of feedback which enables the systems theorists to incorporate in the analysis an account of the dynamic factors within political life which lead to change and development.¹

Foregoing Concepts as Applied to India. In the Indian political system the authority, which produces binding and legitimate decisions and enforces them by using legitimate physical coercion, is broadly vested in the Union and State Governments, in accordance with the provisions of the Constitution. This authority is mainly exercised by their executives and legislatures. But the Indian political system, like any other, is wider than the government, which consists of the legally constituted organs—legislature, executive (including the administration) and the judiciary. The political system also includes: informal or non-governmental elements such as historical legacy, geographical factors, social and economic organisations, ideologies and values system (viz democracy, socialism and secularism), political style (e.g. democratic system of government), political parties, interest groups and structure of leadership.

In other words, it consists of a large number of political structures, among which governmental structures—the executive, the legislature and the judiciary at the central, state and local levels—are the most important. Bureaucracy or administration, various commissions, boards, agencies and corporations also form part of governmental structures. Among the non-governmental structures, we may include political parties, interest groups and other social and economic organisations, which in any way influence the functioning of the governmental structures. Political structures in India are in a large measure differentiated and specialised, i.e. complex as opposed to simple ones found in an undeveloped political system.

The political system of India is democratic, because at all the three levels of government—central, state and local—it has democratic institutions. There are representative bodies generally constituted through freely and fairly held elections at prescribed intervals. Not only in their constitution, but in their functioning also, these bodies are democratic. Even the recruitment of political leaders and civil services is in accordance with the established principles of democracy. Political institutions in India are relatively autonomous and not subordinated to the ruling elite (political party) and

¹Davies and Lewis, *Modern Political Systems*, pp. 37-8.

bureaucracy. Thus the Indian political system in this respect very much resembles the democratic systems of U.K., U.S.A., Australia, Canada and other Western democracies ; and it is, therefore, different from the dictatorial and totalitarian systems found in military regimes and communist states.

Coming to its functions, the Indian political system performs all the input and output functions. We may briefly state them here: political socialization and recruitment is carried on both by governmental and non-governmental agencies. Media of mass communication (radio, television, newspapers), government publicity, schools and colleges and political parties and many other organisations carry on the work of political socialization, which is essential for creating proper attitude and opinion among the people regarding the political system. Recruitment for civil services is the chief work of the public service commissions. But recruitment to a large number of political offices and leadership roles is made by the political parties at all levels of government. A large number of interest groups perform the function of interest articulation ; while interest aggregation is the most important work of political parties at the national, regional and local levels. Political communication is mainly carried on by government agencies of publicity and mass communication. Political leaders and workers also participate in this work. All these input functions are performed both by governmental and non-governmental agencies

The output functions are wholly performed by governmental organs. Rule-making includes all legislative enactments, delegated legislation, rules and regulations made by various authorities at all levels. Thus rule-making is wider than law-making, which is the chief business of legislatures. Rule application is the task performed by all executive and administrative authorities. Rule adjudication is carried on mainly by the courts, administrative tribunals and various other authorities, vested with the power of adjudication. All outputs — government policies, decisions and actions — serve as feed-back, i.e., they lead to new demands and increase or decrease in support which form the inputs of the political system.

The Indian political system continuously receives inputs from within the political system and also from the environment. Indian environment consists of all social, economic and political structures — the society as a whole. Indian society is composed of a large number of communities, tribes, castes, groups based on region, language (nationality) and other common interests. All these social groupings, economic associations (interest groups) and political

parties are always making demands upon the government. They also lend support in greater or lesser degree, as a result of which the system (mainly the government) is able to perform its functions. Great and undue increase in public demands and withdrawal of adequate support from the regime—agitations, oppositional movements, use of violence, breaches of law and order etc.—create stresses for the system. The external environment is constituted by the international society. The increasing arms race, arming of Pakistan by the U.S.A., strengthening of American bases in the Indian ocean and unfavourable attitude of U.S.A., China and Pakistan towards India are also causing stresses for the Indian political system.

Dynamic factors in the changing situation of the country since independence have led to great changes in all spheres of life—social, economic and political. Its activities are affected by other sub-systems of the society, processes and activities that occur in the whole environment beyond the borders of the state. Thus the Indian political system has so far endeavoured successfully to cope with the continuing challenges arising from the intra as well as extra—societal environment. It has maintained its stability and has remained in a state of equilibrium.

‘The interaction between the foundational aspects of a political system and the governmental organs of that system constitute “the dynamics of politics.” Social, economic, political and ideological claims and supports rising from these foundational aspects of a system are constantly being presented to officials and organs of government with the demand that they be converted into public policy. Political parties, interest or pressure groups, and political leaders play the role of conveyor-belts between the makers of such claims and the organs of government that make official decisions and establish public policy. They thus serve as active or dynamic agents within a political system, shifting and choosing among the claims that demand action, formulating these in viable terms, gathering support, and presenting the results in the form of demands, for political action’¹

If we apply the structural-functional analysis of Almond and Powell to the political system of India, we would see that the Congress party is a structure within the Indian political system. The

¹Park and Mesquita, *Indian Political System* (Second ed.) Preface, pp. IX-X

factions as pressure groups inside the Congress are working as agents of interest articulation defined by the same writers as "the process by which individuals and groups make demands upon the political decision makers." The factional groups within the Congress as interest articulators make demands upon the political decision makers i.e., the Congress, and the Congress as an aggregator of diverse interests converts those demands into general policy alternatives.¹

II. The Land

Location and Area. The Union of India is the seventh largest country in the world covering an area of 3,287,782 sq. kms. The country stretches from latitude 8°4' north to 37°6' north and from longitude 68°7' east to 90°25' east. India is a vast country, measuring 3,214 km. from north to south and about 2,933 km. from west to east. The Tropic of Cancer passes through its middle part. On the south is the Indian ocean and the Himalayan ranges form its northern borders. The southern peninsula is bounded by the Arabian Sea and the Bay of Bengal on western and eastern sides respectively. The narrow Palk strait divides India and Sri Lanka (Ceylon). It stands on the great highway of commerce between the East and the West. The trans-India Ocean routes connect the industrially developed countries of Europe and the under-developed countries of Asia (Western as well as Eastern) and Africa. India has a coast-line of 6,100 kms., and it mainly depends on the sea-routes for the bulk of her foreign trade. Its land frontier is more than 15,000 km. long. The northern border is mountainous and very difficult to cross, except through the mountain passes. On its north-west are situated Pakistan and Afghanistan and on the eastern border Bangladesh and Burma. China and India meet in the Western and eastern zones of the northern frontier. In the central zone Nepal and Bhutan lie between the two great land-masses of Asia.

Physical Regions. India may be divided into the following regions: (1) *High Mountain Barrier* formed by the Himalayas in the north and the Eastern Highlands. The Himalayas form a highly rugged and continuous stretch between the Brahmaputra Gorge in the east and the Indus River (now in Pakistan) in the West. (2) *The*

¹Sunil Ranjan Chakraborti, 'The Ruling Congress in India : A Profile of Its Factional Interactions', I.J.P.S., Apl. June 1977, p. 203.

Plains of North India stretch in the east west direction between the Himalyas in the north and the Deccan Plateau of Peninsular India in the south. They form a continuous belt of alluvial soil. The region consists mainly of the Sutlej plain in the west, the Gangetic plain in the middle, and the Gangetic Delta and the Brahmaputra valley in the east. (3) *The Indian Plateau* stretches from the south of the Gangetic plain and forms a large triangle with its apex in the south at Cape Comorin. The rift valleys of the Narmada and Tapti rivers open on the Arabian Sea. The Satpura Range, about 900 km. long, runs between the two rivers upto Amarkantak. To the south of the Satpura range lies the broad Tapti valley. The Deccan plateau further south is bounded on the east by the hills called the Eastern Ghats and it is fringed in the west by the Western Ghats, stretching from the lower Tapti Valley to the south as a contiguous range till they join the Eastern Ghats in the Nilgiri Hills. (4) *Coastal Lowlands*: The Indian Plateau is fringed with narrow coastal low-land on both sides. The western lowlands are narrow, drained by the rivers Tapti, Narmada, Mahi and Sabarmati. These are fairly large rivers which deposit sediments in the gulf of Cambay. The lowland on the eastern side is broad in Tamil Nadu, but to the north of Godavari it is narrow. All rivers of the Deccan, excepting the Tapti, flow eastwards into the Bay of Bengal. Their large deltas are fertile as well as irrigated, so they are densely populated. All the major and minor sea-ports are situated on the eastern and western coasts of peninsular India, excepting Calcutta, which is the most important port on the north of the Bay of Bengal.¹

Climate. Since the Tropic of Cancer passes through the middle of the country, the southern half of the country has a tropical climate. During the winter, the north half is warmer than areas situated within the same latitudes, because the great Himalya checks the penetration of cold air from the north. Since north India is mildly cool during winter and hot for greater part of the year, it is generally said that India is essentially a tropical country. Interior parts of north India become very hot during summer; the low-lands of north-west India, in particular, record very high temperatures in summer.

Rainfall. The country receives nearly four-fifths of her annual rain-fall during the monsoon rainy season. These rains are of great

¹ Gopal Singh, *A Geography of India.*, pp. 1-17.

importance for agriculture, as three-fourths of the cultivated land depends on the adequacy of these rains. Sometimes the dates of the onset and the withdrawal of the monsoon (rainy) season depart from the normal and occasionally the rains are uneven, with the result that they cause drought in some parts and floods in others. After September, temperature falls rather gradually in the country. The north-west monsoon starts retreating rapidly in the third week of September in north-west India. Rainfall is scanty over most of India during the winter season. The spatial distribution of rainfall in India is uneven. Cheerapunji (in Meghalaya) receives the highest rain-fall (1,080 cm) in the world; and the Western part of Jaisalmer district (Rajasthan) is one of the driest parts of the world, receiving only about 9 cm of rainfall in one year.

Influence of Climate on the Character and Occupations of the People. The influence of climate may be seen in the following respects: (i) As the climate is hot and moist and the land is fertile, agriculture has been the chief occupation of the people. (ii) Cultivation in the country has for ages depended on the monsoon rains. (iii) Under easy conditions of life in warm climates individuals mature early and the increase of population tends to be rapid; so the fertile regions become densely populated. This is exactly the case in India. (iv) The abundance and variety of natural products, and the desire to make the most of these by patient labour, have given rise to the numerous handicrafts for which India has long been famous.¹

Natural Resources. Land is, in a fundamental sense, the most important endowment of Nature. The area available for agriculture and the pattern of its use are of immense importance for the people. But our land resources are becoming inadequate in view of the increasing requirements of the growing population. With 15 per cent population of the world, India has only 24 per cent of the share in the land surface of the world. However, in variety of soils it holds out great promise. The result is a large variety of crops: rice, wheat, tea, cotton, jute, pepper, etc. The present picture of land utilisation is given below:

Total geographical area	32.88 (Crore Hectares)
Total reported area for land utilisation	30.41 (,,)
Forest	6.88 (,,)

¹O.P. Verma, *Economic and Regional Geography of India*, pp. 26-7.

Not available for cultivation	1.75 („)
Total Cropped area	16.70 („)

The land under forest is just 23 per cent of the total area, while the national forest policy aims at raising the area under forests to one-third of the total area. The fact that almost the entire forest area is under state ownership is helpful in organising it under one agency—the government. Among the advantages of the forests, the principal are : (i) Forests confer manifold ecological benefits on the country. (ii) They supply vast raw materials to many industries, for example, timber, paper, news-print, rayon, saw-milling, wood panel products, matches, resins, medicinal herbs, wild-life and tourism. (iii) Forests also help in earning some foreign exchange through the export of teak, rosewood, paper, natural gums, resins, etc.

India's potential water resources are very large; and it is estimated that a minimum of 107 million hectares of land can be irrigated. The Central Water Power Commission in 1953 estimated the potential for hydel power at 41.15 million KW. Potential for water transport is equally significant. The total length of navigable inland waterways is about 141.50 km. and coastal transport has an equally great potential. But our water resources are not being fully utilised. The total irrigated area is around 58 million hectares, a little above 50 per cent of the potential. The installed capacity for hydel power generation is about 11 million KW., just a little above 25 per cent of the total potential.

From the viewpoint of modern industries the most needed minerals are coal, petroleum and iron ore. Coal and petroleum are also important sources of energy and petro-chemicals. Many other minerals viz. ores of manganese, chromite, aluminium, copper, lead, zinc, phosphate, potash, etc. are no less important; but they are needed in small quantities. Country's minerals have also contributed a great deal to export earnings. In 1978 the value of mineral production stood at about Rs. 1,470 crores, while it was a mere Rs. 82 crores in 1951. It has increased now by about 18 times since then. The country has fairly large quantities of iron ore, coal deposits, manganese, and the minerals required for the manufacture of chemicals, etc.

Energy Resources. In India, the figures for 1965-66 indicate the contributions of different sources of power as follows: commercial sources, i.e., coal, hydel power and petroleum 30 per cent; non-commercial sources, like wood, vegetable waste and dung cakes, 31

per cent; and labour, human and animal, 39 per cent. The latest estimates of coal reserves are 131,000 million tonnes, which are likely to last a thousand years. The production of oil (petroleum) was just 0.5 per cent in 1961. The Fifth Five-Year Plan projected its rise to 12 million tonnes by 1978-79; and the sixth Plan (1980-85) aims at raising it to 21.6 million tonnes in 1984-85. The latest in the field of energy is atomic power. India's first nuclear power station at Tarapur (Bombay) started generating power in October 1969, with a capacity of 420 mw. One other power station with the same capacity has been constructed at Kota in Rajasthan.

In the development of natural resources, the first essential thing is to view them in the national perspective. Another important thing is that the government should have a plan for the use, conservation and augmentation of country's natural resources. 'To sum up, the development and the use of natural resources is vital for the economic development of the country. For this it is necessary to have a country-wide perception and long-term perspective. For this government is the right agency. It alone can provide a social orientation to the natural wealth of the country, and an integrated approach to the subject.'¹

III. The People

Population. India is one of the most densely peopled countries in the world with more than 548 million persons in 1971. India is second only to China in her man-power. India's total population is more than that of the USA (207 million) and the USSR (245 million) taken together. The 1981 census put the figure at 684 million. The figures reveal that population went up by 24.75% since 1971. The impact of rising population as a drag on economic development is felt in various ways, some of which may briefly be stated here: (i) During 1960-61 and 1975-76, national income (at 1960-61 prices) rose by 66 per cent but on account of the rise in population by 24 per cent, per capita income rose by less than 20 per cent. (2) Between 1951 and 1979, net availability of foodgrains increased from 65 million tonnes to 116 million tonnes, signifying an increase of 84 per cent. But during the same period, population increased from 397 million to 651 million, i.e. by 64 per cent. Consequently, per capita domestic availability of foodgrains increased from 451 grams

¹A.N. Agrawal, *Indian Economy : Problems of Development and Planning*, Chap. 6.

to 480 grams, signifying a very small increase only. (3) Very obviously, rising population is accompanied by a rise in the labour force of the community. So the solution of the problem of unemployment is becoming increasingly difficult. (4) Rising population also increases the burden of education, medical care and housing. All these factors lead us to the conclusion that the fruits of development do not reach the people of India ¹

Density. According to 1981 census, the average density of population is 208 persons per sq. km. and it is very unevenly distributed. Tamil Nadu and Uttar Pradesh are some of the highly densely populated states, but Madhya Pradesh, Rajasthan, Himachal Pradesh and Nagaland, on the other hand, have a low density of population. It is true to say that economic development is associated with the growth of urbanisation. In India the urban population has grown in absolute terms from a figure of 25 million in 1901 to 109 million in 1971, signifying a fourfold increase. However, India ranks quite low among the countries of the world in the degree of urbanisation. On the whole, 80 per cent of the total population lives in villages and the people derive their livelihood mainly by tilling the soil. Towns and cities serving many purposes—industrial, commercial, educational, administrative, etc.—dot thickly populated rural landscape. A very high concentration of people is found in the Gangetic Plain, the Punjab-Haryana Plain and the coastal plains.

Religions. Religion-wise break-up for 1971 in millions was as follows: Hindus 453, Muslims 61.4, Christians 14.2, Sikhs 10.3, Buddhists 38.12 lakhs, Jains 26.14 lakhs and others taken together 21.18 lakhs. All communities improved their growth over the previous decade, except the Buddhists whose number dropped from 22.67 lakhs to 17.20 lakhs. Muslims improved their percentage from 10.70 to 11.21. Hindus account for more than 60 per cent of the population in most of the States and Union Territories. Muslims are in majority in the States of Jammu and Kashmir and in the Union Territory of Lakshadweep. In seven States—Assam, West Bengal, Uttar Pradesh, Bihar, Karnataka, Gujarat, Andhra Pradesh—Muslims constitute the largest minority.

Languages. India is a land with a large number of languages, spoken as well as written. These may broadly be placed in four groups as follows : (1) The Munda Languages, which were spoken

¹Ruddar Dutt and Sundharam, *Indian Economy*, p. 57.

by the pre-Dravidian inhabitants of the country, are now used only by remote hill tribes of Chhota Nagpur Plateau, who live in thick forests. (2) The Dravidian Languages are now-a-days confined to the peninsular India. Their main branches are : Tamil, Telugu, Malayalam and Kanarese. (3) The Tibeto-Chinese Languages are the languages of the Mongol people. In India they are spoken by the hill tribes of the Himalayas, such as Lepchas. (4) The Indo-European Languages include Sindhi, Gujarati, Marathi, Rajasthani, Pahari, Punjabi, Kashmiri, Urdu, various forms of Hindi, Bengali and the Assamese. These are used by the people living in the various parts of northern India.

Major Occupations. There has been no marked change in the structure of major occupational groups of the people during the period 1901-71. There were 180.51 million workers in India according to the 1971 census; and they comprised 32.93 per cent of the total population. Cultivators formed the bulk of the total workers in 1971; 43.34, 26.33 and 30.33 per cent were cultivators, agricultural labourers and other workers respectively. In the states where land is mostly mountainous, rocky or sandy and economy is based on subsistence agriculture, the population is sparse, percentage of agricultural labour is very small and that of cultivators is very high. In the country, employment opportunities for the people are gradually increasing in various fields, for example, manufacturing, mining, construction, transportation, government service, education, legal and medical professions.

Society. Indian society is divided into a large number of groups on the basis of religion, region, language and caste. The major religious communities are the Hindus, Muslims, Sikhs, Parsees, Christians, Jains, and Buddhists. On the basis of language, there are large and small groups, using the various languages. On the basis of caste Indian society, particularly the majority community—The Hindus—are divided into a large number of castes and sub-castes, e.g. Brahmans, Vaishes, Rajputs, Thakurs, Yadavas, Jats, Gujars, Kayasthas and Scheduled Classes, which are subdivided into Jatavas, Valmiki and so on. Under the influence of Hinduism castes, on the basis of vocations, are also found among the Muslims and Sikhs. On the basis of region, there are the Kashmiris, Punjabis, Rajasthanis, people of Uttar Pradesh, Biharis, Oriyas, Assamese, Marathas, Gujaratis, Kannada, Telegus, Tamils, Keralaites, and so on.

'To make governing more difficult the heterogeneity of the populace and complexity of their interactions with one another are probably unmatched in the history of the human species. There is diversity not only along geographical, urban, rural, class, religious and ethnic lines but also on the basis of caste.... That virtually all these social divisions contain the characteristics of hierarchy would seem to make the adoption of democratic governing institutions, which we hold as an ideal, without at least a minimum amount of political equality, at once surprising, bold, and ironical.... Although one can find isolated exceptions, the caste hierarchy usually bears a strong resemblance to the class hierarchy. In most villages a single high caste tends to be dominant. The high caste owns most of the land and employs virtually all others in the village in professions traditionally considered inferior like cultivation, shoe-making, carpentry, record-keeping, hair-dressing, making jewelry and so on....

'Thus in rural India, the forms of political mobilization may be vertical (based on landlord-client relationship), horizontal (based on caste ties), ideology or interest-groups based (cutting across both vertical and horizontal ties) or a combination, with clients of some castes following the dictates of the landed caste, other caste members operating in unity, and members of other castes, responding to other appeals. But caste ties are so fundamental that politicians cannot afford to ignore them. In the cities caste tends to play a lesser role. The class structure and voluntary interest group activity tends to be the power base.'¹

Those writers, who emphasise the aspect of unity, say that Indian society is like a mosaic. There is some truth in the assertion that Indian people, despite their numerous divisions and subdivisions have been characterised by a fundamental unity. Nationalists of all sorts, particularly during the struggle for freedom, emphasised this aspect. There are other writers and thinkers who emphasise the social divisions among the people. Various kinds of social conflicts arise from differences in religious creeds, castes, language groups, regional loyalties, etc. The critical point of the Indian social structure is not to be seen in the fact that it is pluralistic—pluralism is one of the main characteristics of the modern society—but that the interest groups are to be defined predominantly on the basis of castes, tribes, linguistic groups and reli-

¹Kamal and Meyer, *Democratic Politics in India*, pp. 1-9.

gious communities.

Political Culture. 'The persistence of tradition in India is one of the remarkable characteristics of its political culture. Without much difficulty one still identifies religious practices, social behaviours, agricultural methods, and private and public ceremonies that have changed little for hundreds of years.... Change is nonetheless the dominant characteristic of the century. Physical change is obvious—the rapid growth of cities, the expansion of industry in towns and even villages, jet aircraft and modern locomotives, improved roads, hydro-electric and nuclear power, and all the other many advances that have come with the Five-Year Plans'. All the great modern leaders of India have been advocates of change. Nehru, of course, was a strong believer in change and had a far less orthodox tie to the older heritage than Gandhi. 'In the light of current developments in India, one must conclude that although bits of the past hang on and persist, industrialization, urbanization, and specializations—in business, in education and even in politics—are trends of the future. India's more traditional political culture continues, but adjusts and blends into the process of modernization more easily and rapidly than one might have thought possible only a few decades ago'.¹

India's great failure in the past has been its inability to erect a political authority, a coherent and persistent centre. From this viewpoint, the traditional Indian community can be characterized as largely apolitical in its organisation. But there was no absence of politics in village India, though it was politics of a different order. 'It was, on the one hand, the politics of village dominance, of local cleavages and factions, in which family and linear ties were the raw material. It was, on the other hand, the politics of managing external authority and its unpredictable ups and downs by allowing it a role in the pattern of local dominance, such as arbitration in local disputes and periodic changes in the secular ranking of castes. While on the whole such a system settled the relationship between groups at various levels, its principal failure was in evolving a unified political framework.'²

However, the struggle for India's independence from the colonial rule, and the introduction of universal franchise have acted as catalysts for transforming a generally apathetic and apolitical

¹Park and Mesquita, *op. cit.*, pp. 44-5.

²Rajni Kothari, *Politics in India*, p. 25.

society into an active and awakened political community. What is the implication of mass awakening for the functioning of the Indian political system? The processes of politicisation have legitimised the pre-eminent role of politics in the Indian society. All important strata of society look towards political actors for solutions of sectional and national problems. An active participation of the masses in the political process of the country legitimises the political system to regulate and intervene in social affairs. Politics have become a pre-eminent activity, and political actors are attempting to control social and economic institutions, because the masses expect that their leaders can solve problems of social exploitation, poverty and unemployment.¹

On account of a democratic set-up in the States, on the pattern of Union Government, people have been participating in increasing numbers in the elections held for the Legislative Assemblies of their States. Similar is the case in regard to people's participation in the elections for the institutions of Panchayati Raj. But political participation does not end with these aspects. There is another important aspect of mass participation in India; this could be termed as the "politics of protest". 'This involves a certain radicalisation of political life. This participation is mainly initiated by the opposition parties'. The politics of protest has dominated India's political life during the last several years. The worsening economic situation, as a result of the armed conflicts of 1962 and 1965, the emergency in 1975-76, growing corruption and rising prices added to the defiant mood of the counter elites and their followers. 'The radicalisation has sometimes resulted in mass violence. The phenomenon of mass violence has to some extent undermined the frail democratic structure. It appears that defiance of government has become a normal tendency of Indian political culture. This does not mean that the majority of citizens is involved in law-breaking. But a certain section of the community has acquired this characteristic and the community at large suffers it. The tendency of political parties to resort to coercion to secure the solution of a socio-political problem in the streets could be regarded as a serious threat to the democratic set-up. It only means that the different parties, including the Congress have yet to learn the rules of the game.'²

¹C.P. Bhambhri, 'Social Conflicts and Politics in India', I.J.P.S., Dec, 1979, pp. 557-58.

²V.M. Sirsikar, *Sovereigns Without Crowns*, p. 4.

Finally, there is the crisis of identity or the lack of identity with the nation. As already pointed out, Indian people are divided into several groups on the bases of religion, region, language and caste. In actual practice large numbers of different groups have greater loyalties for their own religious, regional, linguistic or caste groups than for their nation. Thus there is a great lack of identity among the people with their nation. The following observation deserves to be noted here : '...the most important political legacy of British imperialism was the creation of a class of people who were largely emancipated from the ties of regional or caste affiliations and bonds. Nevertheless, this group was not cohesive enough to maintain the unity of India after it became independent. Even the truncated India is suffering the process of attrition, because the geographical, religious and caste divisions of the country have re-asserted themselves. The caste has proved more powerful than the casteless elite which has so far remained the main guarantor of the unity of the country.'¹

Major Problems. (1) *Tradition Vs. Modernity.* Modernity has generally been opposed to traditions in contemporary analysis of social and political change. Modernity can be realised only when tradition has been destroyed and superseded. The Indians are an extremely conservative people; therefore the hold of tradition in India is stronger than in any other country. 'A completely traditionalistic and anti-rational social order of this kind, which cannot be shattered by rationalising the economy, is incapable of giving birth to economic and technical revolutions from within itself....It generates such disabilities as intolerance, a closed-mindedness and segregationism, which are opposed to innovation, achievement-orientation and the spirit of expansion, the triple requisites essential for industrial development.'²

(2) *Class Conflict.* The rural economy in India is virtually under the sway of semi-feudal landlords, who would not 'modernise' the economy lest the tenant also gets a part of the additional yield. There is also the question of class-power to reckon with. Their political power is essentially based on the tenants being perpetually indebted to them. It is, therefore, natural that they would try to maintain their power position by keeping undisturbed this phenomenon of perpetual indebtedness through consciously perpetuating

¹Surinder Suri, *Politics and Society in India*, pp. 131-34.

²A.K. Mukhopadhyay, *Society and Politics in Contemporary India*, p. 174.

stagnation and low productivity in agriculture by restraining technological improvements. The Commission for Scheduled Castes and Tribes in its 1979 report said that the numbers of landless labourers among the scheduled castes and tribes grew from 345 to 518 and from 197 to 330 per thousand respectively during 1961-71. In big cities having a large number of factions and industries, there are frequent conflicts between the employers and workers. In spite of labour laws and regulations, the workers are usually exploited by their employers.

(3) *Poverty and Unemployment.* This is the most difficult problem, which has so far defied all efforts to solve it. The most obvious reason for this is the rapid growth of population. Poverty, unemployment and illiteracy have grown absolutely with growing numbers. But then high fertility is as much a consequence as a cause of poverty. Tardy implementation of agrarian reforms has come in the way of the structural changes needed to ensure greater productivity in the countryside. The emphasis on land ceilings was not misplaced. But there has been a good deal of evasion and eviction and slow progress in redistributing the "surplus" land. The growing pressure on land is evident in growing landlessness. The answer obviously lies in off-farm occupations in the countryside rather than an unrequited flow of migrants to what has been well described as "inadvertent cities," refugee camps for the rural dispossessed.¹

By any reckoning, the problem is daunting. At the moment, at least 60 million marginal farmers and the landless cannot afford even two square meals a day without additional work. Raj Krishna, basing his calculations on national sample surveys, has estimated that 20 million full time jobs must be provided, mostly in the countryside, to achieve anything approaching the goal of full employment. The number of job-seekers on the live registers of Employment Exchanges alone totals nearly 10 million. The figure includes nearly 3½ million matriculates, well over a million graduates or post-graduates and almost 20,000 qualified engineers. Such mind-boggling statistics can be reeled off ad nauseam.²

¹B.G. Verghese, 'Our Poverty Has Grown', *Illustrated Weekly of India*, 14 Aug. 1977.

²K.C. Khanna '20 Million Without Jobs', *Illustrated Weekly of India*, 15 May 1977. For other problems refer to : Electoral Reform, Chap 15; Party System, Chap 19; Language, Chap. 21, Regionalism, Chapt. 22; Communalism, Chap. 23, Casteism, Chap. 24; and nation-building Chap. 25.

IV. Government in Ancient and Medieval India

ANCIENT INDIA

Kingship : The Prevailing Form. Although the non-monarchical forms of government existed down to the fourth century A.D., many forces had been at work for several centuries past to make monarchy the prevailing form of administration in the country. In ancient India, the king was the keystone of the social arch. In the early Vedic period, kingship was elective, and the choice of the king was made by the 'rajkrit', or 'rajkartarah' i.e. king-makers. At the same time the Vedic King ruled with the help of popular bodies—Samiti and Sabha.

The word Samiti (sam-iti) means 'meeting together', i.e. an assembly. It was the national assembly of the whole people or visah. In the Atharva-veda, we have a prayer for a 'common samiti', a 'common policy of state,' a 'common aim' and a 'common mind.' This indicates that matters of state ('mantra') were discussed in the Samiti. It was thought necessary that the king should attend the samiti. 'Sabha' means literally a body of men sitting together. Those entitled to a seat therein were invested, so to say, with lustre. The Sabha also acted as the national judicature. Thus, we find from the Vedas that national life and activities in the earliest times were expressed through popular assemblies and institutions.¹

The king, according to Kautilya, should establish safety and security by being over active; maintain his subjects in the observance of their respective duties by exercising authority; and endear himself to the people by bringing them in contact with wealth and doing good to them. 'In the happiness of his subjects lies his happiness; in their welfare his welfare; whatever pleases his subjects he shall consider as good. Hence the king shall ever be active and discharge his duties; the root of wealth is activity, and of evil its reverse.'²

Republics. But India was not always the home of despotic authority; in other words, monarchy was not the only form of government. Republics, too, existed—perhaps as numerous and as potent as in the Western world. 'Hindu republics are another illustration of communal self-governing habits of the post-Vedic age. The account of Hindu states of non-kingly forms of government presents a great chapter in the constitutional history of the race. The laws

¹K. P. Jayaswal, *Hindu Polity*, pp. 12-18.

²R. Shamasastry, *Kautilya's Arthashastra*, p. 38.

and the administration of law in the republican states of India are unanimously praised by the Greek observers, and their praise is confirmed by the Mahabharata. A high sense of justice was maintained. Discipline was another virtue of theirs. Bravery was a point of ambition and honour amongst the citizens. However, we do not find any systematic philosophy of republicanism in ancient India. Probably this was due to the fact that when in about the fourth century B.C. political theorising began, republicanism as a polity was getting weaker and weaker.¹

Empire. Chandragupta was the first great Mauryan emperor, who was a 'Samrat' or 'King of Kings'. Some of the local rulers owed a nominal allegiance to the suzerain power; others paid the annual tribute and were liable to be called upon to assist in case of a war with foreign powers. They were practically independent of control so far as their internal affairs were concerned. The system of government under the great emperor, Asoka the Great, resembled a paternal despotism, but the power of the emperor was not quite absolute. The devices by which the monarch's authority was kept within proper limits were more moral than political and the term used by P.N. Banerjea to describe the system is 'Sachivatantra'.

'The efficiency of administration, of course, varied in the different states and at different times. As might be expected, under good kings and capable minister a high standard of success was attained, while incompetent administrators not unoften found it difficult to maintain peace and security in the whole kingdom, it seems that the administration was efficient. It was founded, as the Chinese traveller, Hiuen Tsiang, noticed, "on benign principles"; and the results of good government were to be seen in the happiness and prosperity of the people, the growth of literature, arts and sciences, and in the high order of civilization.'²

Aspects of Administration. The ministers were divided into two classes, *amatya* and *mantrin*. In the Arthasastra the *amatyas* constituted a regular cadre of service from which all high officers such as chief priests, ministers and treasurers engaged in civil and criminal administration were recruited. Kautilya, Manu and Kamandaka use the word *sachiva* and *amatya* as synonyms. In the text of Kamandaka *sachiva* generally means a minister; but the Nitisara of Kamandaka nowhere clearly differentiates *sachiva* from *mantri*.

¹V. P. Varma, *Studies in Hindu Political Thought and Its Metaphysical Foundations*, p. 84.

²P. N. Banerjea, *Public Administration in Ancient India*, p. 47.

Kautilya assigns the *amatya* agricultural operations, fortification and welfare of the territory, punishment of the criminal and collection of the royal dues.

From the post-Mauryan period and especially from the Gupta times, certain political and administrative developments tended to feudalize the state apparatus. The most striking development was the practice of land grant which allowed administrative and fiscal immunities to religious beneficiaries. In a few examples civil officers were also allotted land for their services to the state, but the grant of land for military service was conspicuously absent in the post-Gupta period. The political organisation of North India from 500 to 750 A.D. as a whole was not unitary in the strict sense of the term. According to Beni Prasad it was a federal-feudalism. But the modern notion of federalism—written constitution, clear demarcation of spheres of power, the idea of coordination of federal and state authorities—was unknown in that period. It was more or less a tributary system.¹

MEDIEVAL PERIOD

Rajput Rulers. 'During the post-Harshan period, when Rajput ascendancy became almost universal in India, the usual form of government throughout the country was feudal monarchy. But in consonance with ancient Indian tradition, the basis of sovereignty was essentially moral and spiritual. The aim of government was not confined merely to promotion of peace and prosperity. The duties of the king were : to preserve the *Varnashram Dharma*, to promote public morality, and to abstain from interference in the spiritual progress of the individual. He was also required to suppress all internal and external enemies of the state in order to ensure peace and security so that the people might live a life of joy and contentment.

Feudalism was an essential characteristic of Rajput monarchy. The Rajput rulers have often been described as autocratic despots, but their autocracy was confined within definite limits and a ruler could even be deposed in special circumstances. Each state had a council of ministers in which the Crown-Prince and the Chief Consort of the ruler had a place *ex-officio*. In certain cases, ministers were appointed on a hereditary basis from selected families. In the local and the central government the barons (many of whom had ties of

¹G. P. Sinha, *Post-Gupta Polity*, pp. 217-19.

kinship with the ruling family) had special privileges and powers, which no rulers could safely disregard. That circumscribed the autocracy of the sovereign. In short, 'Rajput government was an amalgam of militarism, feudalism and divine right monarchy. The chief aim of the rulers was acquisition of military glory rather than promotion of public weal. The rulers, therefore, evoked respect but not affection or gratitude. Civil and military appointments generally went to the *Brahmans* and the *Kshatriyas*. This made the rest of the people apathetic towards political affairs....By abstaining from interference in local administration they helped to develop among the local population initiative, efficiency and self-reliance.'¹

The Sultans of Delhi. The Sultan dominated the central government. He was the legal head of the state and acted as the chief executive as well as the court of highest appeal. He made appointments to all the higher civil and military posts; and the entire bureaucracy acted under his control and supervision. He was assisted by a number of officials, chief among them were: Deputy Sultan or Naib, Wazir (head of the finance department), *Ariz-i-mumalik* (Chief of military staff), *Sud-us-sudur* (head of ecclesiastical department), *Qazi-ul-quzat* (head of the judicial department), *Dabir-i-khas* or *Amir-Munshi* (head of the records department), *Barid-i-mumalik* (head of the information and intelligence department).

The Mughal Emperors. The victory of Babar at the battle of Panipat in 1526 led to the founding of the Mughal rule in India. Humayun recaptured Delhi and ascended the throne again for a short time. His death in an accident in January 1556 led to the coronation of young Akbar at Kalanaur on 14 February. The last of the great Mughal Emperors, Aurangzeb, died on 3 March 1707. In the preceding period of Turkish Rule (Sultans of Delhi), there was some opposition to the theory that the monarch was the shadow of God in very orthodox circles of Muslim thinkers; but it did not last long. "With the arrival of the Mughals it gathered a new force and reached its high water-mark under Humayun and Akbar.'

Tripathi writes : 'A study of the Muslim kingship in India shows that on more than one occasion it showed promising signs of assuming a constitutional form. The Muslim theory was constitutional and democratic in its character, a fact which ought to have given a powerful lever to the rise of constitutional monarchy. Yet kingship in India could not rise above benevolent despotism and a

¹A. B. Pandey, *Society and Government in Medieval India*, pp. 1-9.

sort of paternal rule.¹ In Muslim India there were no representative assemblies. The council of the Muslim sovereign was chosen by him and consulted by him, when he pleased. The Mughal Emperors took great pains for the proper administration of justice and provided means through which justice could be administered all over the empire. 'Notwithstanding many shortcomings in the Mughal government, it gave for about two centuries unity to the country and comparative stability, which produced a congenial atmosphere for progress and general prosperity.'²

Jadunath Sarkar observes : 'The administrative system of the Mughal empire has more than an academic interest for us. This type of administration with its arrangement, procedure, machinery and even titles, was borrowed by the Hindu states outside the territory directly subject to Muslim rule. But the Mughal system was also the model followed by some independent Hindu States of the time. Even a staunch champion of Hindu orthodoxy like Shivaji at first copied it in Maharashtra and it was only later in life that he made a deliberate attempt to give a Hindu colour to his administrative machinery by substituting Sanskrit titles for Persian ones at his court; but most of the names of departments, records, and subordinate officials in his kingdom remained Islamic where they were not indigenous Marathi.'³

V. Constitutional Development in the Modern Period

After the death of Aurangzeb (1707), the Mughal Empire began to disintegrate; the central administration was paralysed; and the East India Company took advantage of the worsening situation. In the north the Battle of Plassey (1757) led to the establishment of British supremacy over the Nawab of Bengal. The defeat of Mughal Emperor's forces at the battle of Buxar in 1764 led to the grant of *Diwani* (i.e. the rights of revenue collection and judicial administration) by the Emperor to the company. The Nawab of Bengal also granted practically the *Nizamat* (i.e. military power and criminal justice) to the Company in the following year. Thus the Company was given control over the province, but its authorities did not feel any responsibility for good administration.

The Regulating Act of 1773. In 1772 the Company was forced

¹R. P. Tripathi, *Some Aspects of Mughal Administration*, p. 152.

²U. N. Ghoshal, *A History of Indian Public Life*, Preface, pp. xiii-xiv.

³J. N. Sarkar, *Mughal Administration*, pp. 1-2.

to beg the British Government for loan. The same year British Parliament appointed a Secret Committee to enquire into the affairs of the Company and submit its report. As a result of that the British Parliament passed the famous Regulating Act in 1773. For the Government of the Presidency of Bengal a Governor-General and four councillors were appointed. The whole Civil and Military government of this Presidency and also the administration of all the territorial acquisitions and revenues in the territories of Bengal, Bihar and Orissa were vested in the Governor General-in-Council. Thus the supremacy of Bengal Presidency over the others was definitely declared. The Governor General-in-Council were required to obey the orders of the Court of Directors and keep them constantly informed of all matters relating to the interest of the Company. The Regulating Act made a bold attempt at securing good government for the Company's territory in India, without the Crown directly assuming the responsibility for the same. It introduced the thin end of the wedge of direct administration by the Crown, by insisting on securing timely information from the Company about its affairs in India.

Pitt's India Act, 1784. Its main provisions were : 1) The Act constituted a Board of Control consisting of 6 commissioners over the Court of Directors. It was given comprehensive power as it was empowered 'to superintend, direct and control all acts, operations and concerns which in any wise related to the civil and military government and revenues of India.' 2) The Directors were left with the power of making appointments to different offices in India and the power of revising all the acts of Indian administration. 3) The Governor General-in-Council was given the power of superintendence, direction and control over the Governments of the Presidencies. This made uniform policy possible; thus one further step in the process of unifying the administration was taken by the Act. 4) The Act made an important amendment in the constitution of the Executive Councils. The Governor-General's Executive Council consisted of only three members, one of them being the Commander-in-Chief.

The Charter Acts of 1793, 1813 and 1833. The Company was given a new charter by the Act of 1793, for a period of 20 years. The Governor-General and the Governors were given the power to override the majority of their councils. The control of the Governor-General over the Presidencies was emphasised. *The Charter Act of 1813* renewed the Charter of the Company for 20

years; but it was deprived of its monopoly of trade with India, though it was allowed to enjoy her monopoly of trade with China for a period of 20 years. Thus subject to certain restrictions, trade with India was thrown open to all British merchants. *The Charter Act of 1833* abolished the Company's monopoly of trade with China as well. The Company (for the first time styled as 'East India Company') ceased altogether to be a mercantile corporation. The Governor-General was conferred the title of 'Governor-General of India'. A fourth member, known as law member, was added to the Council. However, he was not to sit or vote at meetings of the Council convened for purposes other than for making laws and regulations. The Governor General-in-Council was empowered to make 'laws and regulations' for the whole of India; thus the legislative powers of the Presidency Governments were taken away; and they could only propose draft schemes.

The Charter Act of 1853. The main provisions of the Act were: (1) The powers of the East India Company were again renewed, 'but only until Parliament shall otherwise provide'; moreover it was to hold Indian territories in trust for Her Majesty, her Heirs and successors. The Act reduced the number of Directors from 24 to 18, of whom six were to be appointed by the Crown. (2) The Council of the Governor-General was remodelled by the admission of the fourth i.e., legislative member as an ordinary member for all purposes. The Commander-in-Chief was made an extra-ordinary member of the Council. (3) The Act provided for the association of six additional members with the Executive Council for legislative purposes only. (4) The Act deprived the Court of Directors of their power of patronage. In future, vacancies in the covenanted service were to be filled by the competitive examinations. It was the last in the series of Charter Acts. It carried the separation of the legislature from the executive a step farther and further diminished the powers of the Court of Directors. However, its greatest defect was that it made no provision for the association of Indians with the work of legislation.

1858 Act. The events of 1857 brought the company rule to an end. The Mutiny gave an impetus to the demand that a commercial company should no longer be allowed to control and direct the government of India. The Act for the better government of India enacted in 1858, had the following main provisions: (1) It transferred the Government of India from the Company to the Crown, Indian administration became henceforth the direct res-

possibility of the British Parliament ; (2) the Board of Control and the Court of Directors were abolished and all their powers were assumed by a Minister of the British Cabinet, known as the Secretary of State for India, who was paid out of Indian revenue ; (3) the Act created a 'Council of India', consisting of 15 members—seven of whom were elected by the Court of Directors and the remaining eight were appointed by the Crown ; and (4) it divided the patronage among the Crown, the Secretary-of-State in Council, and the authorities in India.

The Indian Councils Act, 1861. In the central sphere it enlarged the Executive of the Governor-General by the addition of a fifth ordinary member, who was required to be a gentleman of legal profession, a jurist rather than a technical lawyer. It also empowered the Governor-General to make rules and orders for the more convenient transaction of business in Council. In the provincial sphere the Act restored to the Governments of Madras and Bombay powers of legislation, subject to Governor-General's previous sanction in certain cases and the veto power of the Governor-General. For this purpose each Presidency Governor was empowered to nominate the Advocate-General of the Presidency and between four and eight other additional members, half of whom were required to be non-officials. The Act of 1861 marked a distinct step forward in constitutional advance in so far as it initiated the process of separating the sphere of legislation and administration.

The Indian Councils Act, 1892. The relevant provisions of the Act were : (1) The Act increased the number of additional members. The number of such member in the Indian Legislative Council could vary between 10 and 16. The spirit of the Indian Councils Act, 1861 dominated the enactment of 1892. Even the use of the term 'Legislative Council' was scrupulously avoided. The several councils could debate, but could not vote. Section 7 of the Act in fact specifically provided that nothing in it 'shall detract from or diminish the powers of the Governor General-in-Council at meetings for the purpose of making laws and regulations' It is true that the door was not barred against election. Lord Curzon, the official spokesman, made it clear that the Viceroy could invite representative bodies in India to elect or select their representatives and give their opinions for nomination by the Government to these councils. But everything was to depend on the manner in which the Governor-General and the Secretary-of-

State should decide to put the measure into effect.¹

The Indian Councils Act, 1909. The main changes brought about by the Act were : (1) It increased the strength of each Legislative Council ; and a council consisted of three classes of members: the officials, the elected and the nominated non-officials. In the Imperial Legislative Council officials were in a substantial, but not an overwhelming majority ; their number was 36 in a house of 68. (2) The Governor General-in-Council, subject to the approval of the Secretary-of-State was authorised to make regulations as to the conditions under which and the manner in which persons resident in India might be nominated or elected. The electorates were divided into three main classes—General Electorates, consisting of the non-official members either of Provincial Legislative Councils or of the Municipal and District Boards ; class Electorates, including (a) Land-holders and Mohammedans ; and Special Electorates consisting of the Presidency Corporations, Universities, Chambers of Commerce, etc. (3) The Act also empowered the various governments in India to make rules for extending the business of councils.

The inner contradiction implicit in the objective of these reforms was the source of all its shortcomings. Like all other attempts at constitutional reform by British rulers this also was characterised by two opposite trends : one progressive and the other reactionary. The advance was made in extending the scope of the existing rights of asking questions or of discussing the financial statement of the Government or conceding the new right of moving resolutions on matters of general public interest. But this was hedged about with so many reservations and restrictions as to render them of not much consequence. 'The Morley-Minto reforms were essentially of an evolutionary character. They were a natural extension of the previously existing systems. The change was one of degree and not of kind. They were based on the fundamental principle that the executive government should retain the financial decision of all questions although some degree of popular control over legislation was established in the Provinces by providing small non-official majorities'.

The Government of India Act 1919. The main features of the reforms-scheme embodied in the Government of India Act 1919 may be summarised as follows : (1) In order to facilitate the

¹B. B. Misra, *Administrative History of India, 1834-1947*, p. 47.

introduction of responsible government in the Provinces, the devolution of powers from the Centre was extended and legalised. A distinction was, therefore, made between the Central and Provincial subjects and the provinces were given a greater measure of freedom to administer the provincial subjects. (2) A beginning in responsible government was made by dividing the provincial subjects into two groups—reserved and transferred—and by placing the latter under the charge of elected Ministers responsible to the Legislative Councils. The former were administered by the Executive Councillors as in the past. This dual system of executive was known as **Dyarchy**. (3) The Provincial Legislative Councils were substantially enlarged. In all of them the majority of members were elected. For the purpose of election, the franchise was widened so as to bring a substantial body of country-folk into the political field. (4) No responsibility was introduced in the Central Government, which continued to be as autocratic and bureaucratic as before. But the Central Legislature was reconstituted on a bicameral basis. The upper and lower houses—known as the Council of State and the Central Legislative Assembly respectively—contained a majority of elected representatives. The elections to both the houses were made direct, though on a very much restricted franchise. Thus there were considerable changes of a far-reaching character in the structure of the Central Legislature. But the Act did not contemplate anything like a federal constitution; and the form of Indian State continued to be unitary.

The importance of the Act of 1919 may be stated in these words: 'The Government of India Act, 1919 was by far the most important measure of Indian policy adopted by the British Parliament since the process of constitutional development began in 1861, as it crossed the line between legislative and executive authority. Previous measures had enabled Indians increasingly to control their Legislatures but not their Governments. Some Indians, it is true, had been members of those Governments, but they had been officially appointed and were responsible, like their colleagues, to the Secretary-of-State and Parliament. Now Indians were to govern, so to speak on their own. They were to take charge of great departments of Provincial administration, not as official nominees but as the leaders of the elected majorities in their legislatures and responsible only to them. Even more striking than the transfer of executive power was the constitutional method by which it was to be exercised, namely, responsible government as under-

stood and practised in Britain. The transferred field was to be governed under the British Parliament system.¹

The Round Table Conference (RTC) and After. The dissatisfaction caused in India on account of the Simon Commission and the Civil Disobedience Movement launched under the leadership of Mahatma Gandhi resulted in the holding of three sessions of the RTC in London during 1930 and 1932. After that the British Government proceeded to draft its proposals in regard to the revision of the Indian Constitution. The proposed scheme of reforms was embodied in the 'White Paper' of March, 1933. This White Paper was submitted to a Joint Committee of both Houses of British Parliament. The Report of the JPC was issued on 22 November 1934. This report was based mainly on the proposals of the White Paper, but some material changes in important matters were also recommended. The Government of India Bill, 1935 was finally passed by the end of July and on receiving the Royal assent on 4 August 1935, it became the famous Government of India Act.

The Government of India Act, 1935. Its main features were : (1) The most vital and fundamental provisions of the Act related to the scheme of an All-India Federation. In the proposed federation the British Indian provinces and the Indian States were to be united. (2) Prior to the introduction of the Montford Reforms in 1921, the Provincial Governments were merely the agents of the Government of India, whose decisions and policy they were to carry out i.e. the Government of India exercised control and supervision over the entire provincial field of government. (3) The 1935 Act abolished dyarchy in the Provinces, but it was to be introduced at the Centre under the proposed scheme of an All India Federation. (4) Neither the Provincial autonomy nor partial responsibility at the Centre were granted by the Act 1935 in an unqualified form. Provincial autonomy was subject to the special responsibilities and discretionary powers of the Governor ; and even the partial responsibility at the Centre was similarly hedged in by a large number of reservations and safeguards (5) As an essential condition of the Federal form of government, a provision was made for the establishment of a Federal Court. But the striking feature of the judicial organisation even under the Act of 1935 was that the Federal Court was not a supreme court, in spite of having original and appellate jurisdiction. (6) The proposed Federal Legislature was to consist of

¹R. Coupland, *India : A Re-Statement*, p. 113.

a Council of States (Upper House), and the Federal Legislative Assembly (Lower House), their maximum strength having been fixed at 260 and 375 members respectively. The size of the provincial legislatures was also considerably increased, almost doubled.

BETWEEN 1937 and 1947

Provincial autonomy came into operation from first April 1937. The Congress had decided to accept offices in the provinces provided the leader of the Congress Party in the Legislature was satisfied and could state publicly that the Governor would not use his special powers of interference. Since the desired assurance was not received, they refused to form ministries in the six provinces where their parties had clear majorities. The Governors appointed interim ministries, which could not continue in office for more than 6 months. After a clarifying statement by the Governor-General in June, the Congress Parties formed ministries in eight (out of the eleven) provinces. But these ministries remained in office only for a short period of about two years, because they resigned on the issue of India's inclusion in the Second World War on the side of Britain and France without the consent of her representatives. When the Congress ministries resigned, the Muslim League observed a 'Deliverance Day', because it had carried on false propaganda about the oppression of the Muslims by the Congress ministries.

1940 August Offer. On 8 August 1940, the Government made a pronouncement, which evoked little enthusiasm in India for the following reasons : (i) there was no prescribed time-limit within which the grant of Dominion Status to India was to take effect ; (ii) while the principle of self-determination was conceded in the main, it was hedged in by a provision which was suspected to render the concession wholly unreal, as it referred to "due fulfilment of Britain's obligations" ; and (iii) the failure of negotiations between the Viceroy and the important leaders of political parties on the issue of the expansion of the Executive Council created an impression that the British Government did not really propose to part with power.

Cripps Offer, 1942. Germany's declaration of war against Soviet Russia gave a different turn to the entire situation. The Congress Working Committee insisted that only "a free and independent India" could undertake the defence of the country and face the storm of the War. The Muslim League, while insisting on the

question of independence, demanded the partition of India into two or more sovereign states. In the meantime the Japanese Army advanced rapidly and occupied almost the whole of South East Asia. The Allied forces withdrew from Malaya, Singapore and Burma. This naturally had an effect on the political situation in India and the British Government sent Sir Stafford Cripps to India for discussion with Congress leaders a draft of proposals for a 'final settlement' of the Indian problem. The proposals which Cripps placed before Indian leaders may be summarised as follows : (1) In order to achieve the earliest possible realization of self-government in India, the British Government proposed that steps should be taken to create a new Indian Union which would have the fullest status of a Dominion with power to secede, if it chose, from the British Commonwealth. (2) Immediately upon the cessation of hostilities, steps were to be taken to set up an elected body, charged with the task of framing a new constitution for India. This constitution-making body was to be elected in accordance with the system of proportional representation by the members of the Lower Houses of all the Provincial Legislatures, for which new elections were to be held. The Indian States were also to be invited to send their representatives. (3) The British Government undertook to accept and implement the constitution framed by that body subject to these conditions : (a) the right of any province not prepared to accept the new constitution to retain its present constitutional position and subsequently accede if it so desired ; and (b) the signing of a negotiated treaty between the British Government and the constitution-making body providing for the complete transfer of responsibilities from British to Indian hands. (4) It was also laid down that any non-acceding Province, if it wished, could agree with such other Provinces on a separate constitution, these combined Provinces being together accorded the same status as the proposed Indian Union.

The proposals were criticised on many counts and finally rejected by the two important political parties—the Congress and the Muslim League. Main defects of the Cripps proposals were : (i) The provision for a separate constitution for non-acceding provinces was the most objectionable feature ; yet it failed to satisfy the Muslim League for a completely Muslim State (Pakistan) in unequivocal terms. (ii) The issue that proved fatal to the plan was the continuance of the 'veto' and special powers of the Viceroy. (iii) The States' people were not to get any representation in the proposed

constitution-making body. (iv) The most serious drawback of all was, as Gandhiji bitterly observed, that the offer was a 'post-dated cheque', to which were added by some critic these words 'on a crashing bank'. After the failure of the Cripps Mission, Gandhiji gave a new slogan to the people : 'Quit India', and advised the Britishers in their own interest to leave India.

The Wavell Plan, 1945. The Viceroy invited Indian leaders to take counsel with him for the purpose of reconstituting his Executive Council, which was to be entirely Indian except for the Viceroy and the Commander-in-Chief. The Council was to work within the frame-work of the existing constitution. The main task of the new Executive Council was : (a) to prosecute the war against Japan with utmost energy till Japan was defeated; (b) to carry on the Government of British India, until a new constitution could be agreed upon and came into force; and (c) to consider as to when the members of the Government could think of the means by which such an agreement could be achieved.

The Wavell proposals were well received by all and even the Congress, and the Congress Leaders were released after about 3 years of imprisonment. The Simla Conference approved of the general principles embodied in the Plan for an Interim Government. The Congress sacrificed some of its principles in giving up its claim to be the sole national organisation and also in accepting the principle of parity. But the Muslim League did not give up its claim to nominate all the Muslims to the new Executive Council. The Congress could not agree to accept the label of a Caste Hindu organization by not being able to nominate a Mohammedan in its panel on the Council. M. A. Jinnah rejected the offer, when he was told by the Viceroy that he could not recognise Muslim League's claim to nominate all Muslim members to the Executive Council. On account of League leader's intransigence the conference broke down and nothing came out of it.

Cabinet Mission Plan. After the War, the new Prime Minister of Britain made an important announcement on 19 February 1946. In it he recognised India's right to independence and expressed his Government's determination to help Indians attain freedom and not to allow any minority, however important, to veto or hold up the progress of the country. He also announced that a Cabinet Mission would be proceeding to India for solving the constitutional deadlock. The Mission arrived in India in March 1946. Soon after its arrival in Delhi it made earnest efforts to bring the two major political

parties together and help resolve their differences. A tripartite conference was later on convened in Simla. Although the Cabinet Mission failed in its attempt to bring about an agreement between the two major parties, yet its efforts paved the way for the statement by the Mission, made on 16 May 1946.

The Mission made the following recommendations : (1) There should be a Union of India, embracing both British India and the States, which would deal with foreign affairs, defence and communications, with necessary powers to raise the finances required for the above subjects. (2) The Union should have an Executive and Legislature consisting of the representatives of British India and States. (3) Communal issues should be decided by a majority of the representatives present and voting of the two major communities as well as a majority of all the members present and voting. (4) All subjects other than those entrusted to the Union and all residuary powers should vest in the Provinces. (5) Provinces should be free to form Groups, the Group Constitutions providing for separate executives and legislatures and each group having the power to determine the provincial subjects to be taken in common. (6) The constitution of the Union and the Groups should contain a provision whereby any Province could, by a majority vote of its Legislative Assembly, call for a reconsideration of the terms of the constitution after an initial period of 10 years and at ten yearly intervals thereafter.

The plan provided for the setting up of a Constituent Assembly of 385 members, to be distributed among the Provinces and States roughly in the ratio of one member to a million of the population. It also (a) provided for the division of the provincial allocation of seats between the main communities; (b) the representatives allotted to each community in a Province were to be elected by the members of that community in its Legislative Assembly; (c) the representation of States was also to be on the basis of population, the method of their selection was left to be determined by consultation between the negotiating committees of the Constituent Assembly and the States; and (d) the proposed Constituent Assembly was not made quite free to frame any kind of constitution it wanted. The principles on which it had to base the Constitution were laid down in the plan itself. The plan also laid down the procedure which the Constituent Assembly had to adopt in carrying out its work. The freedom of the Constituent Assembly was also restricted in respect of its ability to put into

groups was optional for the provinces. (b) Although the rights of the Muslim minority were protected by the scheme, the same was not done with regard to other minorities like the Sikhs in the Punjab. (c) The order in which the Union and sectional assemblies were to meet and draft their constitutions was defective. It looked ridiculous first to form the constitutions of the groups and the provinces and then to frame the constitution of Indian Union.

The Interim Government. On 12 August 1946 the Viceroy invited J. L. Nehru to form the Interim Government even without the co-operation of the Muslim League. This fact all the more irritated the Muslim League and was the immediate occasion for the Calcutta killings. However, the Interim Government under the leadership of Nehru assumed office on 2 September 1946. Although the Muslim League refused to join the Interim Government, yet the Viceroy continued his negotiations with M. A. Jinnah and persuaded him to nominate League members to the Interim Government on 15 October. This Government remained in office till the partition of India.

The Constituent Assembly. Elections to the Constituent Assembly had taken place in July and the same met for the first time in New Delhi on 9 December 1946. The Muslim League refused to participate in its deliberations. Jinnah was determined on getting the Constituent Assembly postponed *sine die*. This created a new deadlock and to resolve it the British Government invited Nehru and Jinnah to London. The British Government interpreted the issue of grouping in favour of the Muslim League and further stated : 'There has never been any prospect of success for the Constituent Assembly except upon the basis of the agreed procedure. Should the constitution come to be framed by a Constituent Assembly in which a large section of the population had not been represented, His Majesty's Government could not, of course, contemplate forcing such a constitution upon any unwilling party of the country.' Thus the British Government encouraged the Muslim League to boycott the Constituent Assembly. British Prime Minister, on 20 February 1947, in an announcement stated that it was the definite intention of His Majesty's Government to take necessary steps to effect the transfer of power to responsible Indian hands by a date not later than June 1948. The power was to be transferred either as a whole to some form of Central Government of British India or to be handed over to the existing Provincial Governments in some areas.

VI. Partition of India and British Legacies

The Mountbatten Plan. Lord Mountbatten arrived in New Delhi on 24 March 1947. First of all he tried to bring about some agreement between the two important contending parties; but this time, too, his efforts met the same fate as others on previous occasions. Then on 3 June, he made known his plan for the full transfer of power to the leaders of the country. The Congress and the Muslim League decided in co-operation with Lord Mountbatten to agree to the partitioning of the country, and accelerate the transfer of power because conditions in India were fast deteriorating.

According to the Mountbatten Plan the country was to be partitioned into British India and two zones of Pakistan. Western Pakistan was to consist of North West Frontier Province (where a plebiscite was to be held for the purpose) and the Punjab (there was to be a division of the Punjab if the Punjab Assembly so voted; predominantly Muslim Western districts were to go to Pakistan, and the rest to India). In the Eastern Zone, Pakistan was to consist of eastern Bengal. If the Legislative Assembly voted for partition of the Province, it was to be so partitioned that the predominantly Muslim areas in the east went over to Pakistan. The States were to determine whether to join a federation and whether to join India or Pakistan; but paramountcy was to lapse. A Boundary Commission was to be appointed for the purpose of deciding disputes about the inclusion of areas in one or the other Dominion. As a result of the new plan, the Constituent Assembly was to be split into separate sovereign Constituent Assemblies for India and Pakistan in accordance with the provisions of the Independence of India Act, 1947.

The Independence of India Act, 1947. It was a document of extraordinary simplicity, consisting of less than 20 sections and 3 schedules. It left all incidental matters, as they arose, to be dealt with by the Governor-General of India. Section I provided that on 15 August 1947, there shall be set up in India two Independent Dominions known respectively as India and Pakistan. Sections 2-4 dealt with the extent of the territories of the two Dominions. Section 5 provided for the appointment by the King of a Governor-General for each of the new Dominions, in India to be appointed by the King on the advice of the Ministers; in Pakistan, there being no Ministers, on the advice of their recognised leaders. Section 6 dealt with the powers of the new Dominion Legislatures, which followed

from the creation of the new Dominions. The British Government gave up all responsibilities in respect of the Government of any of the two Dominions, renounced paramountcy over the States, and provided that agreements with the States must be concluded by the appropriate successor authority. Section 8 made temporary provisions as regards the government of the new Dominions. The existing Government of India Act was to remain the basic constitution for both the Dominions. Section 9 set out the machinery of adaptation. Section 10 dealt with the position of the services. Section 11-13 were of technical character and related to provisions about the Indian armed forces, the British forces in India and the naval forces. It came into operation on 15 August 1947. The Government of India Act, 1935 was amended and adapted by the Indian Provisional Constitution Order, 1947.

PARTITION OF INDIA

British Responsibility. "The British cannot be absolved from much of the basic responsibility of contributing to the inevitability of partition, although in their defence it may be argued that at the time when separate electorates were introduced, they appeared both necessary and logical, and that it was not possible to divide and rule unless the ruled were ready to be divided. It is, perhaps, much nearer the truth to say that it was only after 1942 that British efforts to preserve the unity of India were sincere and well-conceived ; it is possible that if from the outset, the British had made it quite clear that they would never countenance partition, the division of the country would have been avoided'.¹

Congress Responsibility. 'Most decisive in the drift to partition was the loss of direction and grip displayed by the Congress leaders between 1939 and 1946. In 1939 they had been in power in British India for two years, showing a capacity for firm government, and demonstrating their right to determine the political future of India. They were riding high. But on the outbreak of war, they abandoned this platform of authority, so giving an unexpected initiative to the Muslim League. The Pakistan resolution of the Muslim League was adopted in 1940. If from that point onwards Jinnah was working single-mindedly for Pakistan, why did he accept the federal plan proposed by the Cabinet Mission in 1946 and himself suggest that

¹ Arun Bhatnagar, 'Was Partition Inevitable?' Times of India, 7 Jan. 1979.

the six Muslim provinces should be grouped but should not deal with vital areas of foreign affairs and defence? His own explanation was that "the League was willing to sacrifice the full sovereign state of Pakistan for securing the independence of the whole of India." He could scarcely have said this if partition had been his sole aim. 'This seems to be the last point in time at which partition could have been avoided, for when the British Cabinet Mission's efforts at finding an agreed solution broke down, Jinnah felt that he had been betrayed, that constitutional methods had failed; and he could not but compare this with the simultaneous success of Muslim League separatist candidates at the polls. 'By this time anyway Jinnah was mortally ill and knew that his time was running out. It was in this context that he made the fateful call to Muslims for "direct action"....From the "Calcutta Killing", events moved very swiftly towards the final solution, for it was no longer possible to persuade the rank and file of Muslim League to accept anything less than Pakistan.'¹

According to Maulana Azad, who was Congress President at that time, J.L. Nehru's two mistakes led to the partition of the country. First, he refused to take Chowdhry Khaliquzzaman and Nawab Ismail Ahmad Khan in the U.P. Cabinet as representatives of the Muslim League. Secondly, in 1945, Nehru said that the Congress had decided to participate in the Constituent Assembly and it could amend the Cabinet Mission Plan as it thought fit, while the Muslim League's point of view was that the 'group constitution' was an essential part of the plan, which could not be changed.² According to Sir Ivor Jennings united India in the form of a "Loose federation" of Hindus and Muslims could have been possible in 1945, if the former had accepted that the demand of the Muslims for a separate state according to Islamic ideals should be fulfilled. If the Congress were prepared to accept other demands of the Muslims a compromise could have been possible in 1940 or 1942.³

In a Round Table on 'Jawaharlal Nehru To-day' organised by the UNESCO in September 1967, R. Thapar, in our view, rightly pointed out that Nehru was impatient in turning out the British rulers; and although he was emotionally opposed to Pakistan, yet he could not resist the compulsions of the immediate. There was a grave fear that a form of extremism—communal and feudal—which

¹ Cyril Philips, 'Was Partition Inevitable'? Illustrated Weekly of India, 29 Jan., 1978.

² Maulana A.K. Azad, *India Wins Freedom*, pp. 155-62.

³ K.K. Aziz, *The Making of Pakistan*, pp. 190-91 and 203-04.

could not be controlled on account of delay, would arise, which could be used even by a weakened alien ruler to further divide the sub-continent. British High Commissioner in India, John Freeman, expressed the view that unity of India could have been preserved, if Cripps proposals of 1942 had been accepted. Upto that time it was possible that the Britishers could have transferred power to a united India, but once that opportunity was missed, unity became impossible. In such circumstances Nehru's stress on accepting a situation, with which was accompanied partition, was as good as any other course could have been and probably it was better.¹

Concluding Observations. The seeds of partition were actually sown in the introduction of separate electorates in 1909, in pursuance of the theory of "divide and rule" as well as a "counter-poise" to the growing force of nationalism. It is true that even in Britain there had always been some well-meaning persons, who sympathised with the nationalist aspirations of the Indians. The Labour Government after the Second World War represented that view-point. But the fact is that there was a stronger force of British imperialists—big business men, retired Indian civilians etc.—which did not want to part with power willingly. Such elements not only cooperated with sectarian and communal elements in India but also encouraged them in raising their demands. It was largely the combination of these forces which made Muslim League under the leadership of Jinnah intransigent. Personal ambitions of the Muslim leaders and some errors on the part of the Congress leaders led to the creation of Pakistan. Thus several contributory factors were responsible for the division of India. However, it is certain that without the help of the British rulers, the Muslim League could not have succeeded in attaining its goal.

British Legacies. In the political field the greatest contribution made by the Britishers was the political unification of India, though much of the discredit for the partition of the country also goes to them. Important instruments of political unification were : (i) a centralised and unified administration ; (ii) Indian civil services ; (iii) Indian armed forces ; (iv) modern means of communication viz. posts and telegraphs and railways ; (v) Western education ; and (vi) English language as the lingua franca of India. All these factors were also largely responsible for the growth of nationalism in India, though the British rulers later placed all sorts of obstacles in the path of nationalism by promoting communalism and sectarianism.

¹ Hindustan Times, 22 Sep. 1967.

Unified administration, legal system and judicial administration, civil services and defence forces were of great help in the re-construction of India.¹

In other words, it may be said that the political modernisation of India was largely due to the British rule. In addition to the various factors mentioned before, the most important in this respect was the creation of parliamentary institutions, under compulsion of conditions created by their rule. We have already discussed the course of constitutional development in pre-independence India. Only this much may be added here that educated Indians acquired so much experience and training in such institutions that they aspired and fought for them. Creation of political organisations and parties was also an outcome of these developments.

In social sphere, too, modern India is indebted to the British for various social reforms, which paved the way for a broad outlook and further reforms. In the economic sphere, the British rulers were mainly responsible for the destruction of Indian cottage industries and wide-spread unemployment and deep-rooted poverty. But in an indirect manner, the development of modern means of transport and communication, contact with the outside world, the destruction of India's handicrafts and the introduction of Western education contributed to the development of textile and some other industries. The British should, at least, be given credit for creating an infrastructure for the development of modern industries and commerce.

¹ The legacy of which British remain most proud, and in which Indians themselves have learned to take certain pride, is the administrative one. The Indian Civil Service was without doubt, the most valuable of the British bequests to independent India'—Hanson and Douglas, *India's Democracy*, p. 23.

CHAPTER 2

Framing of the Constitution

I. Dominion Government and the Constituent Assembly

DOMINION GOVERNMENT

Consequent upon the passing of the Independence of India Act 1947, India joined the rank of the Dominions of the British Commonwealth. The responsibility for the governance of the country fell upon the representatives of the people. For the first time they got the right to frame a constitution for their country, unhampered by any outside authority. The Constituent Assembly which had been set up under the Cabinet Mission Plan was divided into two—the Constituent Assembly for India (consisting of 307 members) and Pakistan. It became sovereign i.e. all limitations formerly imposed on its procedure and conditions to which the constitution to be framed by it was subject under the Cabinet Mission Plan were removed.

Other significant changes were as follows: The Governor-General became a symbolic head of the Government appointed by the Crown on the recommendation of the Prime Minister. The Executive Council gave place to the Council of Ministers meeting under the chairmanship of the Prime Minister. The existing Central Legislature was abolished and the Constituent Assembly became the Dominion Parliament as well, to which the Council of Ministers was made responsible. Almost similar changes followed in the government of the Provinces. The Governors, hitherto appointed by the Governor-General, became the constitutional heads of their governments, having been deprived of all their special powers. The Council of Ministers assumed full powers of administration ; and its responsibility to the provincial legislature continued as before. The Government of India Act, 1935, as amended by the Independence of India Act, 1947 and the provisional constitutional orders issued by the Governor-General remained the basis of the Dominion Government.

THE CONSTITUENT ASSEMBLY (CA)

Its Composition. Although the CA, constituted in 1946, had not been elected on the basis of adult suffrage, yet it represented almost all view-points and was composed of the best talent in the whole country. As the congress was in overwhelming majority in the Legislative Assemblies of the Provinces, which formed the electoral college for electing members of the Constituent Assembly, it certainly dominated the deliberations of the Constituent Assembly. 'But true to its past history and national character, the Congress approached the task of constitution-making in no narrow, partisan or sectarian spirit. It sent its best men to the Assembly and also saw to it that all communities and interests got fair representation. Congress leaders further tried that all those, who, because of their special knowledge, experience and ability, could be particularly useful, were elected to the Constituent Assembly.

The statesmanship of the Congress leaders was even more strikingly reflected in the election of some eminent persons of diverse experiences and viewpoints, although some of them had been political opponents of the Congress during the freedom struggle. For example, Sachidanand Sinha, the veteran lawyer and parliamentarian acted as the temporary Chairman of the Constituent Assembly ; Alladi Krishnaswami Ayyar, the eminent constitutional lawyer ; N. Gopal-swami Ayyangar, the distinguished administrator, Hirday Nath Kunzru, the highly respected Liberal politician ; M. R. Jayakar, the eminent jurist and Liberal leader ; Shyama Prasad Mookerjee, leader of the Hindu Mahasabha and a great parliamentarian ; D. P. Khaitan and Padampat Singhanian, leaders of the mercantile community; B. R. Ambedkar, the noted lawyer, scholar and leader of the Scheduled Castes ; S. Radhakrishnan, the eminent scholar, philosopher and educationist and Mrs. Hansa Mehta, President of the All India Women's Conference, were all elected on Congress sponsorship. Among the leaders of the minority communities, other than Muslims and Sikhs and Scheduled Castes, sponsored by the Congress, particular mention may be made here of Frank Anthony, lawyer leader of the Anglo-Indian community ; M. R. Masani, Parsi, one of the founders of the Congress Socialist Party ; H. P. Mody, (Parsi), a leader of the business community ; H. C. Mookerjee, a leader of the Christian community.

Constituent Assembly was, thus, a highly representative body.

This was despite the fact that some organizations were not properly represented. Notable among these were the Communist and the Socialist parties. Somnath Lahiri, the lone Communist member, who had been elected from Bengal, lost his seat after Partition. Soon after Independence, there was a change in the policy of the Communist Party towards the new government in India. In its session at Calcutta in February 1948, it adopted a militant thesis and its Central Committee adopted the resolution condemning the Draft Constitution, produced by the Drafting Committee of the Constituent Assembly.

The representation of the Indian States in the Constituent Assembly fitted into the general pattern provided by British India. In accordance with the decision of the Negotiations Committee 50% of the representatives of the States were elected through legislatures or electoral colleges and the rest were nominated by the Rulers. Most of the elected representatives of the States were Congressmen or Congress sympathisers. At the same time, some eminent men, who had distinguished themselves as lawyers, economists or administrators in British India, were nominated by their respective rulers to the CA, thus adding to its strength.

Organisation and Procedure of the CA. Under the Rules of Procedure, the CA elected Dr. Rajendra Prasad as its permanent President and two Vice-Presidents. The office of the CA was divided into two branches (i) the Advisory, headed by the Constitutional Adviser and (ii) the Administrative, under a full-time Secretary. The first important step that the CA took was the adoption of the Objectives Resolution, moved by Jawaharlal Nehru on 13 December 1946. Having done that, the Assembly appointed a number of committees to deal with different aspects of constitution-making. The Drafting Committee was the most important of all. It consisted of Dr. B. R. Ambedkar, the Law Minister of the Government of India, and six other members.

The reports of the various committees were placed before the CA for its consideration, without following any fixed procedure. On the basis of the recommendations of the committees, as accepted by the CA, the Constitutional Adviser, prepared the first draft in October 1947. The Drafting Committee then scrutinised the provisions of this draft, and on its basis prepared the Draft Constitution in February 1948, consisting of 315 articles and 8 schedules.

The Assembly took up the consideration of the Draft

Constitution in November 1948. The debate on and discussion of draft provisions continued for about a year during which the Assembly sat for 107 days. The Drafting Committee revised the Draft Constitution in the light of the discussion and decisions of the CA. The third Draft was presented by the Drafting Committee to the CA on 3 November 1949. The Draft Constitution was finally approved by the CA on 26 November 1949.

II. Party Attitudes, Tremendous Task and Objectives Resolution

Party Attitudes

Indian National Congress. The Congress favoured a federation as the best solution of the Indian problem. In this way, it was hoped that the unity of the country could be maintained by conciliating the minority groups and the Indian states. If the unity of the country was to be maintained, the minority groups and the regional aspirations had to be satisfied. The Congress, therefore, accepted a federation with a great deal of autonomy for its constituent units. But the partition of the country brought about a radical change in the attitude of the Congress towards the nature of the Indian federation. The idea of a loose federation with a weak centre was replaced by that of a strong Central Government. The division of the country had a profound influence on the making of the Indian Constitution. It gave a new slant to the minority problem and also changed the pattern of the Indian federation. The centre was made strong with residuary powers. A strong attitude was adopted towards communal organisations and secessionist tendencies.

The Liberals (Popularly known as Moderates). They were criticised for their inconsistencies and for a "narrow constitutionalism and legalism." But as constitutionalists their contribution to the making of the constitution was not negligible. The CA, constituted on the basis of indirect election and nomination, reflected the sense of moderation and the spirit of toleration advocated by the liberals. The Constitution remained ultimately a liberal document.

The Hindu Mahasabha. It believed in the principle of majority rule with adequate safeguards for the protection of religion, culture and language of the minorities. According to them, the governing principle of the constitution was to be democracy, which meant the rule of majority. It, therefore, considered the parity of representation on communal basis as a negation of nationalism. Mahasabha leaders also wanted the Interim Government based on the ratio of popul-

ation. At its 1944 session, the Mahasabha had adopted a draft constitution of India, to be styled as "The constitution of the Hindustan Free State." The federation of India was to consist of a bicameral legislature, elected by adult franchise on the principle of "one man one vote." It stood for a strong Central Government with the power of superintendence and control over the units. The nationalists deplored the communal stand of the Mahasabha as well as that of the Muslim League.

The Communist Party. In its memorandum to the Cabinet Mission, it had demanded a single Constituent Assembly directly elected by the people. In the CA it played the role of a loyal opposition. But still a discordant note was struck when in the Bengal Legislative Assembly Jyoti Basu not only questioned the right of the CA to frame a constitution for free India, but also bitterly attacked the Draft Constitution.

The Sikhs. They were divided between nationalists and extremists or the Akali Dal. The latter were more vocal about the interests of their community and claimed the Punjab as their homeland. Since they had feared the establishment of Muslim rule in the Punjab they had demanded increased representation for the Sikhs. But in case Pakistan was conceded to Muslims, they had demanded "a separate sovereign Sikh State" and a separate constitution-making body for the Sikh State. As this demand was rejected by the Cabinet Mission, they continued their fight in the CA and succeeded in securing the privileges of the recognised minorities for certain backward sections of the Sikh community.

The Depressed Classes. The main problem of these classes was their backwardness and, therefore, they pressed for the acceptance of their political rights as the way to remove their social and economic disabilities. The framers of the Constitution sympathised with their claims. They abolished untouchability, reserved seats for them in the House of the People (Lok Sabha) and in the Legislative Assemblies of the States and also recognised their claims to public services.

'Thus, the different political parties came to the CA with different attitudes. Some of their views seemed unreasonable to the members of the Assembly and were rejected, but some were incorporated in the Constitution. In the CA the influence of the Indian National Congress was most profound. But it cannot be said that the Constitution of India is "a Constitution given by a majority party in the country." In reality, the background of the Constitution was

provided by the different political parties representing the different sections of the people in the country. In the CA, every important section of the people was represented, and the Constitution that finally emerged was more the creation of a "true National Assembly" than of any single party in India.¹

Tremendous Task. Constitution-making was not an easy task, as may be judged from the problems with which the framers of the Constitution were faced. Firstly, they had to provide a Constitution which could unite a population of over 300 millions; and the population was not homogeneous. 'There are many communities living in this country, and many languages prevalent in different parts of it. There are other kinds of differences also. Provision was also to be made for backward people and areas, like tribes and tribal areas.' Next, the problem of the Indian States was difficult, as the British declaration on the lapse of paramountcy had freed the Indian states from the suzerainty of the British Crown. The general control which the Crown had so long exercised over the Indian States came to an end all of a sudden.

The communal problem was another problem which had to be solved. It is of pretty long standing. The second Round Table Conference failed, because the communal problem could not be solved, and in spite of several subsequent attempts to solve it, no settlement could be arrived at and finally led to the partition of the country. With the division of India the problem ceased to be of the same magnitude as before, but the Constitution had yet to guard against its reappearance.²

From another angle, the CA's task was to draft a constitution that could serve the ultimate goal of social revolution and of national renaissance. But this was a task far more complicated than the simple drafting of fundamental rights or the moral precepts of a preamble. What form of political institutions would foster or at least permit a social revolution? If the country were not united, if the government were not stable and if the government lacked the cooperation or the acquiescence of the people, there could be no economic progress and no government initiative for social change. What political institutions, therefore, would help to accomplish these subsidiary aims and so establish the conditions in which social change could more easily take place? Should the constitution be unitary, federal, or almost completely decentralized?³

¹ U.K. Tiwary, *The Making of the Indian Constitution*, pp 24-34.

² V.N. Shukla, *The Constitution of India*, p. XLVI.

³ G. Austin, *The Indian Constitution : The Cornerstone of a Nation*, p. 26.

The tremendousness of the task may also be inferred from the large size of the constitution. It deals with : the organization and functions of the three principal branches of government—the executive, the legislature and the judiciary—both at the Centre and in the Units. (ii) Fundamental Rights, Directive Principles of State Policy, citizenship etc. (iii) Union-State relations. (iv) Provisions regarding Public Services, Official Languages. (v) Special provisions for minorities and backward classes. (vi) Temporary Provisions, etc.

There is, therefore, no merit in the criticism of Sir Ivor Jennings and others of his way of thinking that the constitution is far too detailed and elaborate, if only we remember the complex conditions obtaining in the sub-continent of India and the fact that we took over existing institutions into the constitution. Moreover, the fact should not be lost sight of that the constitution of 1935 covered an almost equal number of pages.

The Objectives Resolution. The Congress Working Committee appointed an Expert Committee, in July 1946, to lay down, among other things, the objectives of the forthcoming Constitution. As the Chairman of this Committee, J. L. Nehru was largely responsible for the framing of the Objectives Resolution which, having been approved by the Expert Committee, was moved in the CA on 13 December 1946. It reads as follows : “This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution.

“Wherein the territories that now comprise British India, the territories that now form the Indian States, as well as such other territories as are willing to be constituted into the Independent Sovereign India shall be a Union of them all ; ...and wherein all powers and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people ; and

“Wherein shall be guaranteed and secured to all the people of India: Justice, social, economic and political;

“Equality of status, of opportunity, and before the law;

“Freedom of thought, expression, belief, faith....and

“Wherein adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and

“Wherein shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea and air according to justice and the law of civilised nations, and this ancient land attain its rightful and honoured place in the world and make its full and

willing contribution to the promotion of world peace and the welfare of mankind.”¹

III. The Problem of States and Federation

Paramountcy. From the beginning of the establishment of the direct rule the “feudatory” and ‘dependent’ position of the Indian Princes was emphasised. ‘The Great Mutiny and the subsequent assumption of direct sovereignty by the Crown changed the whole historical and constitutional position of the Indian rulers. From the foreign and independent allies of a sovereign corporation, the great states found themselves transformed into the protected ‘feudatories of the Crown of England, whose sovereignty over them was boldly and frankly announced and pressed with the unquestioned authority of irresistible military power.’²

The Ruler of Nabha was arrested in 1923 and in 1926 the Rulers of Udaipur and Indore were deposed from their thrones. In his letter to the Nizam, dated 27 March 1926, Lord Reading wrote: ‘The Right of the British Government to intervene in the internal affairs of Indian States is another instance of the consequences necessarily involved in the “Supremacy” of the British Crown. The British Government have indeed shown again and again that they have no desire to exercise this right without grave reason. But the internal, no less than the external, security which the ruling princes enjoy is due ultimately to the protecting power of the British Government, and where imperial interests are concerned, or the general welfare of the people of a state is seriously and grievously affected by the action of its Government, it is with the Paramount Power that the ultimate responsibility of taking remedial action, if necessary, must lie.’

From the above it is quite clear that although official documents and correspondence made the use of the words ‘internal sovereignty’ in regard to the states, they reserved important powers of intervention

¹ While moving the Resolution in the Constituent Assembly, Nehru said that it was more than a resolution ; it was “a pledge and an undertaking”, “a declaration” and “a dedication”. It was a declaration of independence, which embodied the aspirations of the Indian people. It was “a solemn pledge to our people which they would redeem in the Constitution, they would frame”. It outlined the essentials of the Constitution, which was to be framed by the Constituent Assembly. The Drafting Committee attempted to “embody in the Preamble the spirit and, as far as possible, the language of the Objectives Resolution.”

² K.M. Panikkar, *Indian States and the Government of India*, p. 34.

to the Paramount Power in the internal affairs of the states. It might tickle the vanity of Indian Princes to be called 'sovereign'; but in reality they did not even possess 'internal sovereignty'. Moreover the relations of the States with Foreign Powers were conducted by the Paramount Power, similarly dealings between one state and another were conducted by the British Government. The Paramount Power, by virtue of its sovereign position, asserted a claim to certain rights, called 'feudal rights', viz., the right to settle succession, constitute regency, degrade position, assume wardship, (including education), recognise, limit and grant titles and permit adoption etc.

Regarding the nature of Paramountcy the Indian States (Butler) Committee said in its Report, issued in 1928 : 'What then is the correct view of the relationship between the States and the Paramount Power ? It is generally agreed that the States are "*sui generis*", that there is no parallel to their position in history, that they are governed by a body of convention and usage not like anything in the world. Paramountcy is Paramount Power...' The political practice of the Paramountcy had always been marked by the solicitude of keeping States subordinated and isolated ; and this gave the Paramount Power a free hand to deal with the states in a way which was peculiar only to political practice of the Supreme Power not comparable with an existing juristic system. The paramount power claimed and assumed for itself, for military and other imperial considerations and international obligations, many rights which affected the sovereignty of the princes.

Indian States and the Nationalist Movement. It was natural that the people of the states organised themselves against the tyranny and the prevailing evils of the administration. Moreover, the non-cooperation movement of 1921-22 and later movements in British India had a great effect on the states' people. In many of the states sprang up people's organizations. The All India States Peoples' Conference founded in 1927, opposed the setting up of the Butler Committee in response to the demands made by the Princes. The same year, the Indian National Congress at its session, held in Madras, adopted a resolution demanding the establishment of democratic administration in the states, in keeping with the spirit of the time. The States' People's Conference carried on an agitation against the demand raised by the Princes that they had their direct relations with the British Crown instead of the Government of India and also for securing representation of the Round Table Conference. The movement for responsible government in the states had been partly accelerated by the inauguration of Provincial Autonomy in the Provinces in 1937 and the good work done by the popular ministries

there. A wide political awakening had taken place before the close of thirties. The Indian National Congress passed resolutions in support of political reforms in the states; but it followed a policy of non-interference, though important Congress leaders in their individual capacity gave full co-operation to the Conference and some of them even actively participated in the agitation carried on by the people of some states.

From the social, religious and economic points of view the Indian states and British India faced similar problems. The population of the states, like that of the Provinces, was mixed, i.e., their people were not homogeneous—they differed racially, linguistically, socially and culturally. The same culture pervaded the whole country. Despite all the differences in their status, character, size and conditions, vital and essential racial and cultural affinities, common historical background and common economic interests existed between the two parts of India. Various matters common to British Indian Provinces were to a great extent those in which the Indian states were interested, e.g. defence, tariffs, exchange, customs, railways and posts and telegraphs.

Indian States and Federation. The Princes felt that in the long run the future of their states would be materially influenced by the introduction and working of responsible government in British India. They realised that their interest in the constitutional progress of British India was not that of detached spectators but of fellow-Indians. An All-India Federation was inevitable. It was a recognition of India's geographical and political unity. The idea of an Indian Federation was welcomed by the Indian Princes at the Round Table Conference; and the constitution under the Government of India Act, 1935 contemplated a federal centre. The scheme of Federation, however, did not materialize owing to the severe opposition of the political parties in British India. The Princes, too, did not show any enthusiasm for the Federation. The scheme was suspended when the Second World War broke out and later on, we might say, it was rejected.

When the nationalist movement triumphed in the end and independence came in 1947, the Princes found themselves in a predicament. The British Government were no longer in a position to exercise paramountcy; so when the British left they declared that paramountcy had lapsed, leaving indetermined the question of the independence of the States and their accession to the Indian Union or Pakistan. It was clear that the map of independent India could not be studded with five hundred fragments of sovereign principalities.

The India of the princes had no future, except in accepting some kind of political cohesion with Independent India.

Lord Mountbatten in July 1947 addressing the Princes strongly recommended to them a form of accession either to India or Pakistan in conformity with compulsions of geography, at least in the matters of Foreign Affairs, Defence and Communications. So that the situation might not be exploited by the reactionaries, the national Government acted promptly. On 5 July 1947, it constituted a separate States Department with Sardar Vallabh Bhai Patel at its head. The first stage in the new process of binding the Indian states with the rest of India was accomplished smoothly by the accession of all the states to the new Government of India, except the three states of Hyderabad, Junagadh and Kashmir. 'It must be said to the eternal credit of the princes that whatever their role under the British, they rose to the occasion in the spirit of patriotism which drew approbation from the Sardar and all lovers of democracy.

Once all the states had rallied under the national flag, the Ministry of States set to working out the unification of the diverse units, territorially, politically, administratively and economically, under a common system of law and government. Most of the states had neither the resources nor the machinery for separate democratic organisations. Integration, or the consolidation of the states into sizable units was, therefore, the next task of Government. It took three forms : (1) Merger of some States into adjoining provinces ; (2) Grouping of other States into unions of States, and (3) Taking over of a few States to be administered centrally.

PROBLEM OF FEDERATION

When the CA first met, it was to set up a federal government which would have controlled only the foreign affairs, defence and communications and have the right to raise funds for performing those functions. The component units were to be divided into two classes. The British provinces were all to exercise equal authority and were to be in the same relation with the federal government. The princely states were to cede such subjects to the federation as were absolutely essential. The division of the country into Pakistan and India changed all that. With emergence of Pakistan, Indian CA was left free to fashion her own constitution in her own way.

The integration of states with the Indian Union had significant effects upon the framing of the constitution. A strong centre was at

once seen to be the need of the hour ; so it was soon agreed that the federation would not be limited to the four subjects assigned to it by the Cabinet Mission. The distribution of powers under the new constitution, therefore, did not make any distinction between the former British provinces and the Indian states. They were placed on the same footing. The problems facing the Government, which confronted the Assembly directly shaped the content of the constitution. A memorandum assessing the problems facing the Interim Government noted that agricultural production policy, price control for agricultural products, the establishment of central higher technical institutions, and food distribution needed attention of the central government. Also demanding urgent consideration were controls on coal and textiles. A second memorandum, containing less pressing matters, listed the need to formulate a sound and firm economic policy, to increase production of consumer goods, to hold back inflation, and to bring down prices.¹

The constitution-makers were anxious enough to ensure that the Union government should have at its disposal adequate means of combating centrifugal forces. 'Indeed, they embodied in the constitution certain provisions which, if frequently operated, would have the effect of reducing the governments of the states to mere agencies of the Union government. In some respects, their 'agency' status is a normal and continuing one. By the constitution, states are enjoined to secure compliance, within their borders, with centrally-promulgated laws and to refrain from impeding the exercise by the central government of its executive powers. Over and above this, however, there is a wide variety of constitutional provisions designed to ensure that, in the last resort, the centre's will shall prevail.'²

IV. The Problem of Minorities and Secularism.

The entire Advisory Committee made its recommendations on the basis of the sub-committee's report. Sentiment in the Assembly at that time seemed to have been in favour of reserving seats for minorities in legislatures, but strongly against separate electorates. Certainly most minority groups and their representatives in the Assembly sought reservation for themselves. The Sikhs wanted reservation, including the Akali Sikh leader and Union Defence Minister, Baldev Singh. The Parsi leader, Homi Modi, supported reservation for his community until Sardar Patel dissuaded him. The leader of the

¹ G. Austin, *op. cit* , pp. 197-98.

² Hanson and Douglas, *India's Democracy*, p. 43.

Congress untouchables, Jagjivan Ram as well as Ambedkar, desired reservation for the Scheduled Castes. The Anglo-Indian Community under Frank Anthony demanded special treatment. Among the Muslims, including the 'nationalist' Congress Muslims, as well as League representatives, there was strong support for reservation. Several voices were even raised in favour of separate electorates.

After considering these views and holding prolonged discussions among themselves, the members of the Minorities Sub-Committee rejected separate electorates by twenty-six votes to three, and by the same margin accepted the principle of reserved seats for certain minorities for a ten-year period, after which the question was to be reconsidered. The Advisory Committee took up the sub-committee's recommendation that separate electorates be ended, only three of the fifty-eight members present opposed abolition. But to prevent communal minorities feeling 'apprehensive', seats were to be reserved for them on the basis of their percentage in the general population. The representatives of the Parsis and the Indian Christians on the Advisory Committee had turned down reservation for their communities. The Anglo-Indians on the committee, led by Frank Anthony, at first called for a form of special representation in legislatures but ultimately gave up this demand in favour of a provision allowing the President and provincial Governors to nominate Anglo-Indians to legislatures if they were inadequately represented as a result of a general election.¹

The Advisory Committee resolved on 11 May 1949 that "the system of reservation for Minorities other than scheduled castes in Legislatures be abolished." On a resolution moved by Sardar Patel, Chairman of the Advisory Committee, the CA abolished separate electorates and reservations for Muslims and Christians in legislatures. Ismail and Sadulla pleaded for separate electorates. The former stated that the Muslims, nurtured under the system of separate electorates, were accustomed to them. The latter argued that because of the difference between the minority and the majority on almost every aspect of life, the interests of the minority could hardly be represented in a legislature by a representative of the majority. Z. H. Lari supported Patel's resolution, but pleaded for proportional representation. Other Muslim delegates supported Patel's resolution vigorously. Ismail Khan asked the Muslims not to obstruct the establishment of a secular state in India; and Naziruddin Ahmad pleaded

¹ Report of the Advisory Committee on the Subject of Minority Rights, pp. 31-2.

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that separate electorates would retard healthy political development and further worsen Hindu-Muslim relations. Begum Aizaz Rasul, while supporting the resolution, drew attention to the sorrows and sufferings of the Muslims, the dangers threatening their lives and property, and the aspersions cast on their love and loyalty to the country.

Frank Anthony spoke about the prevalence of communalism in the country, the identification of free India, in some circles, with Hindu Raj, and Indian culture with Hindu culture. He said that secularism was an ideal yet to be achieved. Dr. H. C. Mookerjee asked : "Are we really honest when we say that we are seeking to establish a secular state?" Nehru agreed that secularism was "an ideal to be aimed at", and that they were all products of the past, carrying in their hearts and minds the taint of communalism. However, he reminded the Assembly that the establishment of a secular state was "an act of faith for all of us, an act of faith above all for the majority community because they will have to show after this they can behave to others in a generous, fair and just way. Let us live up to that faith." Dr. Mookerjee and Sardar Hukum Singh also emphasized that in a secular State it was the responsibility of the majority to ensure the security of minority. Begum Rasul appealed passionately to the minority to trust in the goodwill of the majority and to work whole-heartedly for building a truly secular state. Trust begets trust," she said. "when we place a sacred trust in the hands of the majority, it is sure to realise its responsibility." Responding to this plea, Patel declared : "Trust us and see what happens."

Secularism came up for discussion again when the Assembly took up the provisions of the draft constitution—articles 19, 20 and 21—on freedom of religion. K.T. Shah and H.V. Kamath proposed amendments requiring the state to display an attitude of absolute impartiality towards religions and not to establish, endow, or patronize any religion. By secular state is meant that the state is not going to make any discrimination whatsoever on the ground of religion or community against any person professing any particular form of religious faith. This means in essence that no particular religion in the state will receive any state patronage whatsoever. In other words, in the affairs of the state the preferring of any particular religion will not be taken into consideration at all.¹

V. Other Important Problems

Type of Democracy to be Adopted

Gandhian Democracy. S. N. Agarwal, like other Gandhians,

¹ See Mohammad Ghouse, *Secularism, Society and Law in India*, pp. 2-4.

hoped that a 'Gandhian' constitution would do away with the need for that great evil of modern societies, political parties. 'The very large measure of local self-government' in his constitution, he said, would, give rise to no 'regular and rigid political parties.' He meant, presumably, that national political parties would find no place in a society so compartmentalized by decentralization. Equally, a 'Gandhian' constitution would return India to a primarily rural society with its base in agriculture, eschewing all but the most essential industrialization. The result of this, Gandhi and his followers believed, would be to 'elevate the moral being' of Indians. The ideal of a revived village life with benevolent panchayats and decentralized government bringing democracy to the grass-roots level appealed to Assembly members. Yet while considering the political tradition to embody in the constitution they had to ask themselves several questions concerning the Gandhian alternative e.g. (a) Was the nature of man different in rural from an urban society ? (b) Was it possible in 1947 to change India back to a primarily agricultural, village nation ?

The CA's alternative to a Gandhian constitution was a constitution in the European and American tradition. Euro-American constitutions provided for directly elected governments. The Assembly's belief in parliamentary government was also strengthened in large measure by the intellectual or emotional commitment of many members to socialism. The CA in the Objectives Resolution and the debate on it established that the constitution must be dedicated to some form of socialism and to the social regeneration of India, and only the Communists could disagree with the Congress Socialist Party's resolution of 1947 stating that 'there could be no Socialism without democracy.'

'Gandhian influence on the final constitutional document was almost entirely confined to certain of the Directive Principles, such as the injunctions to discourage the consumption of intoxicating liquors and to encourage the organisation of village

Panchayats. As these items, like the rest of the Directive Principles, were not justiciable, they carried only moral force and their implementation remained at the discretion of the government. Nevertheless, it was parliamentary, representative democracy, which Gandhi and his most faithful disciples regarded as a harmful foreign importation, that provided the essential basis of the constitution, both at the centre and in the states. The westerners, therefore, had emerged victorious.¹

¹ Hanson and Douglas, *op. cit.*, p. 37.

'The preamble to the Constitution has promised to the citizens of India, *inter alia*, justice—social, economic and political. It is obvious that political freedom and democracy as such have no significance to the common men and women of this country unless they serve as a means to bring about a change in the socio-economic relations of the community which would enable them to enjoy life, liberty and happiness in amplitude. The guarantee of social, economic and political justice, in substance, means that the constitution has promised all the citizens of the country that they will be members of a free, open, modern society founded on social equality and economic justice.... It is the doctrine of socio-economic justice which makes political freedom and democracy relevant ; and this relevance is completely lost if democratic effort to bring economic justice to landless labourers fails and makes no impact on the abolition of untouchability.'¹

The Problems of Linguistic States and Official Language.

Linguistic States. One of the most difficult problems in the framing of India's new Constitution was that of satisfying the demand for linguistic provinces and other demands of a like nature. The CA did not, however, attempt to resolve the question, despite strong pressures to do so. Article 3 provides that Parliament may form a new state by combining two states or by the separation of territory from a state, may increase or diminish the area of any state, and may alter its boundaries or name. No Bill for these purposes may be introduced in Parliament except on the recommendation of the President after he has 'ascertained' the views of the legislature (s) of the state (s) concerned. Thus the face of India can be changed by Parliament without recourse to the more cumbersome mechanism of constitutional amendment.¹ The reorganisation of states followed in 1956 on the basis of the States' Reorganisation Commission's Report.

Official Language. Although from the first CA members favoured adopting Hindi, or Hindustani, and finally decided this in near unanimity, they split into bitterly contending factions over connected issues. The central points of the controversy were the length of time English should continue to be used as the language of government and the status to be accorded to the other regional languages. Hindi-speaking Assembly members from the provinces of

¹ P.B. Gajendragadkar, *Indian Democracy : Its Major Imperatives*, p. 96

North and Central India, constituted one faction. This group believed that Hindi should be not only the 'national' language by virtue of an inherent superiority over other Indian languages, but that it should replace English for official Union purposes immediately or in a very short time. It also held that Hindi should soon replace English as the second language of the provinces. In opposition were the moderates, who believed that Hindi—which they defined much more broadly—might be declared the 'official' language of the Union because the large number of Indians spoke it, but that it should be simply the first among equals, the other regional languages having national status. They also demanded that English, as the *de facto* national language, should be replaced very, very slowly and cautiously. Nehru, joined by several other Assembly leaders, led this group. The other moderates came largely from South India, Bombay, and Bengal, areas where Hindi was not spoken and where English had been the only link between the speakers of the regional languages.

'India's problem has been and is, rather, one of sub-national sentiment and sub-national competition, which often take the form of linguistic rivalries. In the Assembly, these rivalries had not assumed their present proportions or many of their present guises ; they were expressed as resistance to the linguistic chauvinism of another sub-national group, the Hindi speakers—who came, unfortunately, to be represented by a group of extremists. The language provisions of the Constitution were designed, in a typically Indian fashion, to meet such a situation. Assembly members believed that India should, ideally, have an indigenous national language ; Hindi (or Hindustani) was the most suitable, so it was named for the role'.¹

¹ G, Austin, *op. cit.*, pp. 266-306.

CHAPTER 3

Sources and Nature of the Constitution

I The Sources.

In order that we may understand the true nature of our constitution it is necessary that we analyse the sources from which the main ideas and institutions incorporated in our Constitution have been derived. The various sources may briefly be stated as follows :

1. *Geographical Features and Social Structure.* The constitution has been framed for India and its people. Quite naturally, the framers of the constitution had in their minds the vast area, regional diversities, communities inhabiting the country and the stages of their development. India was constituted into a Union of States to ensure the unity and integrity of the country and at the same to grant a large measure of autonomy to its component units, so that they may develop in keeping with their regional, social and cultural characteristics.

2. *Political History and Constitutional Development prior to the Making of the Constitution.* So far as the political ideas and institutions of ancient and medieval periods are concerned, they did not have much influence on the form of the Constitution, but it is true that these things were considered by the Constitution makers. However, there is one thing which was given a place in the directive principles—the organisation of panchayats, though it was mainly due to the impact of Gandhian ideas on constitution making. It may be added that full-fledged democracy based on universal adult suffrage was adopted because it was believed that the people of India had the tradition of self-governing institutions, particularly in the Hindu period. There is one other thing relating to the political history of India, which exercised great influence on the framers of the constitution ; it was the lesson of India's

history that whenever India was divided, it was subjected to external aggression, hence the great need for ensuring the unity of the country.

3. *Influence of Western Liberal Ideas.* The preamble of the Constitution enshrines the liberal concepts of liberty, equality and fraternity. Even the concepts of democracy, secularism, fundamental rights and socialism (inserted by the 42nd amendment) have come to us from the west. All these concepts may be regarded as the philosophical postulates of our Constitution. They constitute, so to say, the "spirit" of Indian Constitution and almost all aspects of Indian political system are characterised by them. Since we shall discuss this aspect in section III of this very chapter, nothing more need be added here.

4. *Impact of Western Constitutions.* Framers of the Constitution were particularly conversant with many of these constitutions. Moreover, lot of material was made available to the members of the Constituent Assembly, particularly to members of its various sub-committees, with a bearing on the various aspects of our constitution. In a nutshell, it is true to say that Western political institutions exercised much greater influence on the Constitution-makers than our own institutions of the past. Broadly speaking, we may list the following in this connection : (i) Parliamentary system of U. K. with most of its practices and conventions ; as a matter of fact, we have borrowed the model of our political system from U. K. (ii) Federal form of government ; the idea of fundamental rights ; some of the powers of the President, for example, powers of the President to send messages to Parliament and return the bills for reconsideration to Parliament ; institution of Vice-President ; and the concept of judicial review from U.S.A. (iii) The chapter on directive principles of state policy from Ireland. (iv) Idea of concurrent list from Australia.

II. The Elements.

The Original Constitution. The most important is the original document, containing 395 articles (grouped in 22 parts) and nine schedules. The entire Constitution covers about 200 pages of print in ordinary book size. References to important provisions and articles of the Constitution have been made in almost every chapter of the book. Therefore, we do not deem it necessary to say here anything more about it.

Amendments of the Constitution. These constitute another very important element of the Constitution. So far 46 amendments

have been made and we have given broad outlines of the amendments in the succeeding chapter, therefore, nothing more need be said here about them.

Conventions. The importance of conventions and usages is the greatest in the constitution of the U.K., because there is no basic constitutional document. In other constitutions, too, conventions have been established and they are an important element of almost every constitution. Though the given constitution is written, yet it cannot be said to be complete in all respects and workable without certain conventional procedures and practices. 'Its written words have to be supplemented by conventions which are expressive of the tradition and genius of the people and the nation. The conventions resolve the conflict between the written word and practice. They bring out the spirit of the written word and impart functional efficiency to the Constitution. They infuse it with a motive power and provide the flesh over the skeleton raised by written text of the Constitution. Though the conventions are not as necessary a part of our Constitution as they are of the unwritten British constitution, yet when applicable they have a similar binding force.' Some of the important conventions regulate the working and conduct of parliamentary government: example, the acceptance of the advice of the Council of Ministers (or Cabinet) by the President (and Governors), appointment and dismissal of ministers on the recommendation of the Prime Minister, the appointment of the Governors of the States in consultation with the State Council of Ministers, etc. The original Constitution did not lay down that the President would be bound by the advice of the Prime Minister and the Council of Ministers, but the convention of binding nature of such advice was never doubted. The courts too accepted the force of this convention, and thus the President remained a conventional head of the state acting in accordance with the aid and advice of his Ministers.¹

Articles 74 and 75 of the Constitution had a good deal of scope for the growth of many healthy conventions. The entire, "aid and advice, clause in article 74 of the Constitution is a source from which many conventions have sprung especially on the appointment of the Prime Minister and other Ministers under article 75.

The remarks about conventions between the President and the Council of Ministers at the Centre apply, equally, to the relationship between the Governor and his Council of Ministers in the State, where

¹ M. C. Setalvad, *The Indian Constitution*, p. 8.

conventions can grow to help to work the constitution in letter and spirit. In particular on this point conventions are necessary for guiding and regulating the exercise of the express discretion which has been given to the Governor under article 163 of the Constitution. Equally again the remarks about conventions in the Centre in the field of Parliament and its procedure apply equally to the States on the subject of the State Legislatures and their procedure and particularly to the question of proroguing and dissolving the State Legislatures, assenting to bills, reserving bills for consideration of the President, Governor's right to address or send messages to the State Legislatures, and the "powers privileges and immunities" of States Legislatures and their members.¹

We may now briefly state the various conventions which have already been established or are in the process of being established :

(1) The whole Council of Ministers resigns when there is an adverse vote of the Lower House against the Government as a whole and not against a single minister.

(2) The Finance Minister presents the budget in Parliament (or a State Legislative Assembly) on behalf of the Government as a whole, but each minister presents separately, but within the figures allotted by the Finance Minister, the demands for grants for his ministry.

(3) The Estimates Committee has as its chairman a member of the ruling party, but the Public Accounts Committee Chairman is nominated from amongst the members of the opposition.

(4) While the Speaker belongs to the majority party, the Deputy Speaker is chosen from the opposition.

(5) After election the Speaker gives up his active association with his party and acts as a non-partisan.

(6) A member belonging to the popular House is appointed prime minister/chief minister.

(7) Many of the privileges and immunities of legislators and of the houses of Legislatures except those defined in the constitution, are the same as those of members and Houses of Parliament in the U.K., as a matter of convention/usage.

Parliamentary Statutes. Many matters were left by the Constitution makers to be determined and regulated by laws of Parliament. Thus Parliament has enacted quite a number of statutes, which form an essential part of the constitutional law of the land. They deal with

¹ Chimanlal Setalvad Lecture, *Critical Problems of the Indian Constitution*, p. 157.

topics such as these : elections, organisation of courts, citizenship, language, State Legislative Councils, administration of the Union Territories, State Reorganisation, etc. They may be described as "organic laws" following the practice under the French constitution. We give below some examples of such important statutes : 1) The Assam Reorganisation Act, 1960, 2) The Bihar West Bengal (Transfer of Territories) Act, 1956, 3) The Central Sales Tax, Act, 1956 4) The Comptroller and Auditor-General (Duties, Powers and Conditions of Service) Act, 1971, 5) The Delimitation of Constituencies Act, 1972, (6) The High Court Judges (Conditions of Service) Act, 1953-1958, (7) The Inter-State Water Disputes Act, 1956, (8) The Legislative Council Act, (1957, 9) The North-East Council Act, 1971, 10) The Official Language Act, 1963-68, (11) The Parliament Prevention of Disqualification Act, 1952, (12) The President (Discharge of Functions) Act, 1969, (13) The Territorial Councils Act, 1956, (14) The Unlawful Activities (Prevention) Act, 1967 and (15) The Untouchability Offences Act, 1955, etc.

Judicial Decisions and Opinions of the Supreme Court. The decisions of the Supreme Court and High Courts on questions of law relating to the interpretation and construction of constitutional provisions are an important element of the constitutional law. The court decisions explain the several provisions of the Constitution, remove ambiguities, and resolve conflicts between different provisions. A court expounds and explains authoritatively the meaning of the provisions in the context of the particular circumstances and factual situation of a case, controversy and dispute. We would now mention a few of the important decisions:

(i) The Gopalan case defines the "procedure established by law" clause and gives the scope of personal liberty in India, (ii) The Atmaram's case explains the scope of the safeguard given to a detenu under the preventive detention law, (iii) The Dalmia case explains the scope of the equality clause (equal protection of laws), (iv) The Search-light case deals with the important issue of curtailment of a citizen's fundamental right of speech and expression, coming in the way of the exercise of a parliamentary privilege, (v) The Nanavati case brings out the scope of Governor's power to suspend a sentence passed by a court of law before it ceases to be sub-judice, (vi) The Keshavanand's case lays down the important rule that the Supreme Court can overrule its own erroneous decisions,¹ (vii) Decisions of the Supreme Court with regard to Parliament's power of amending

¹ M.C.J. Kagzi, *The Constitution of India*, pp. 4-7.

the Constitution, particularly in respect of the fundamental rights. Some of these have led to the passage of various Amendment Acts. Opinions given by the Supreme Court in response to Presidential references also become part of the constitutional law.

III. Preamble and the Philosophical Postulates.

THE PREAMBLE

It was in keeping with the spirit of the Objectives Resolution that the Preamble to the Constitution announced, in the name of the People of India that, having solemnly resolved to constitute India into a '*Sovereign. Democratic Republic*', they were adopting, enacting and giving to themselves the Constitution which aimed at securing to all citizens of the country.

Justice—social, economic and political ;

Liberty of thought, expression, belief, faith and worship;

Equality of status and opportunity ; and to promote among them all *Fraternity*, assuring the dignity of the individual and the unity of the nation.

The words '*Socialist Secular*', were inserted between '*Sovereign*' and '*Democratic Republic*' by the 42nd amendment.

It indicates only the general purposes for which the people ordained and established the Constitution. The Supreme Court of India laid down that while it is permissible to look at the preamble for understanding the import of various clauses contained in it, full effect can only be given to the express provisions of the Constitution, even though they may appear to go beyond the terms of the preamble. Where the language of the Constitution Act is clear, the preamble should be disregarded. But where the object or meaning of an enactment is not clear the preamble may be resorted to explain it. Again, where very general language is used in a provision, the preamble may be used to indicate to what particular instances the provision is intended to apply. A preamble, no doubt, is a key to open the minds of the makers. However, it can never be a source of power. A preamble provides significant help in the interpretation of the Constitution, when words actually used are ambiguous.

The Preamble sets the Constitution in a highly moral and idealistic perspective. It embodies not only the spirit in which the Constitution was drafted but also the ideals which the people, as represent-

ed in the Constituent Assembly wanted their country to realise. These are the ideals of justice, equality, liberty and fraternity. It also makes clear the character of the policy that we have established ; it is the Sovereign. Socialist Secular Democratic Republic. These again clearly lay down the nature of the political system established under the Constitution.

THE PHILOSOPHICAL POSTULATES

The following ideals, which have been enshrined in the preamble, may be regarded as its philosophical postulates. These are the ideals which the citizens of the country want to realise through the Constitution : *Justice*—Social, economic and political—(Welfare state).

Liberty, equality and fraternity—democracy in all its aspects.

Sovereignty—enjoying full internal and external sovereignty like any other independent state.

Socialist—principles of socialism are embodied in the directive principles of state policy.

Secular—equal status for all religions and religious freedom for all citizens.

Democratic Republic—a democratic state without any kind of monarchy ; United Kingdom is a democracy but not a republic.

IV. Salient Features.

Written, Enacted as well as Evolved. The Constitution is wholly written in the form of the original constitutional document with 395 articles, grouped into 22 parts and with nine schedules. The Constitution was enacted by the Constituent Assembly, especially constituted for this purpose, so it is quite clearly an enacted Constitution, like that of the U.S.A., differing in this respect from the Constitution of U.K., which is mostly unwritten and evolved. But our Constitution, like that of U.K., is also an evolved one, in the sense that it was not wholly created anew or written on a *tabula rasa*. The Constitution has evolved from many Acts passed by British Parliament from 1858 to 1947. In this connection reference may be made, in particular, to the growth of parliamentary institutions, the Government of India Act 1935 (from which many of the provisions, including their language have been borrowed), the Cabinet Mission Plan and the Independence of India Act, 1947. It is for this reason that the Constitutional development of India has been given in outline in chapter 1.

An Adaptation From Existing Models. We have already pointed

out that the Constitution makers adopted the British model. The system of parliamentary government established in the country has mainly been borrowed from the British system. Our Constitution-makers had very much assimilated the legacies of British rule and wanted to perpetuate their best elements. They were Western in inspiration, outlook and political thinking. Besides the system of parliamentary government, their system of law and justice had taken roots in country. But the same has been adapted to suit the conditions and needs of our country. While discussing the sources of the Constitution in section I, we have mentioned the important provisions borrowed from the constitutions of U.A.S., Australia, Ireland etc. It is therefore, unnecessary to say anything more about this feature, except that our Constitution was criticised by many of our countrymen on the ground that (i) it is an adaptation from foreign models, (ii) it is a hotch-potch Constitution, and (iii) political institutions of ancient India have not been given the place they deserved. We have already admitted that it is an adaptation, but it is wholly unjustified to say that it is a hotch-potch Constitution. A careful study of the detailed provisions of the Constitution would convince every thinking and reasonable man possessing a broad outlook that the framers of the Constitution were undoubtedly the ablest patriotic men and that they gave to their countrymen and their posterity the best constitution that could be framed under the prevailing conditions of the country. As regards the charge that our Constitution is not indigenous, we will revert to this in the next section.

People's Own National Constitution. It is true that the Constitution was framed by the representatives of the people who were elected indirectly and not particularly for the purpose of constitution making. But the fact cannot be denied that even if elections were to be held for this purpose, the composition of the Constituent Assembly would not have been different from the composition it had. Under the Cabinet Mission Plan, even if direct elections were to be held, almost all the candidates set up by the Congress and the other important groups would have been successful. Hence, the constitution-makers were the true representatives of the people and they framed a Constitution which was and remains the best instrument for fulfilling the hopes and aspirations of the people. It is people's own Constitution in another way also. It vests sovereignty in the people and they can get it amended in any way they like through their representatives, by their mandate at the polls for the Lok Sabha.

Several other provisions of the Constitution are intended to

strengthen national unity. Some of the important ones are : (i) single citizenship throughout the Union ; (ii) adoption of Hindi as the official language of the Union, which will replace English in stages ; (iii) adoption of regional (national) languages by the States in place of English ; (iv) all-India services, (v) abolition of communal electorates ; (vi) guarantee of fundamental rights to all citizens irrespective of religion, caste or creed—ensuring their unity and equality as well as the secular nature of Indian society ; and (vii) unitary features of Indian federalism, on account of which India has been described by some constitutional authorities as a 'quasi-federation'.

A Federal Polity With a Strong Centre. Indian Constitution is truly federal in form as well as in spirit, since it possesses all the fundamental features of a federation, viz. a written and rigid constitution, division of powers and a supreme court. In this respect it resembles more with the constitution of U.S.A. than with that of the United Kingdom. India is a federation of states that, as in the U.S.A. and U.S.S.R. is called 'union'. In the U.S.A. the thirteen colonies existed prior to the formation of the union. But India developed from a highly centralized government under British rule into a federation. As B.R. Ambedkar, 'father' of the Indian Constitution explained : '...the use of the term 'Union' is deliberate...I can tell you why the Drafting Committee wanted to make it clear that though India was to be a federation, the federation was not the result of an agreement by the States to join a federation and that federation not being the result of an agreement, no state has the right to secede from it. The federation is a union because it is indestructible.¹

A Unique Combination of Flexibility and Rigidity. One special merit of our Constitution is that in spite of being rigid it has great flexibility. There is such a judicious combination of these elements that we hope to reap the advantages of both types of constitutions. The Constitution is a sacred document, it should not be amended frequently ; but at the same time it is an instrument to give expression to people's will which must change with time, hence the need for easy amending process. Another aspect to be noted in this connection is that the Constitution is normally federal, but it can assume unitary form in emergency. Further, the ease or difficulty with which a Constitution may be amended has come to be used by constitutional theorists as a primary measure of its 'flexibility' or 'rigidity'. By this yardstick, the Indian Constitution during the two

¹ S. N. Mishra, 'Some Reflections on the Nature of the Indian Constitution', J.C.P.S. April-June 1977, p. 41.

decades and a half of its existence has proved very flexible, in fact, too flexible for the critics who charge that the 'sanctity' of the Constitution has been destroyed by the amendments already made. The consideration of flexibility should also take into account the changes that can be brought in a constitution by custom and usage, without resorting to amendments. By this yardstick, too, the Indian Constitution has proved flexible, as the various conventions show.

Some other important features of the Constitution, which have been discussed in relevant chapters, may simply be mentioned here : (1) Parliamentary Form of Government. (2) Fundamental Rights and Directive Principles of State Policy. (3) Independent Judiciary and other Independent Agencies : Public Service Commissions ; Election Commission, Special Provisions, etc. (4) Not Pledged to Any Particular Economic Order. Originally it was so, although the directive principles of state policy clearly embody the goals of socialism and welfare state. The 42nd amendment has inserted the word 'socialism' before 'democratic republic' in the preamble.

V. A Critical Estimate

Important grounds, on which the Constitution has been criticised, may be discussed as follows :

The Constitution is very Lengthy and Detailed. Our Constitution, containing 395 articles and 9 schedules, is really very lengthy. The constitutions of some other countries contain : U.S.A. 121 sections, Canada 147 articles, Australia 128 articles, and South Africa 153 articles. The charge is, therefore, true, because the Constitution is very comprehensive and includes even those details which could and should have been left for the growth of conventions and usages. Ivor Jennings, the famous British constitutional lawyer, rightly holds that English constitution being mainly unwritten has grown with the development of conventions according to the needs of the times, because British constitutional lawyers have emphasised the democratic institutions more than the constitutional laws. But in India, where the people also had British legacy, democratic institutions have been established through the Constitution or constitutional laws.

It would, however, not be proper to attribute the length of the Constitution to the fact that the Constituent Assembly consisted of a large number of lawyers, who made the constitution into a kind of 'paradise for the lawyers.' There were sound reasons for the

extraordinary bulk of the Constitution. These may briefly be stated as : (i) The Constitution was framed for a country with a vast area and population, most of which was illiterate and inexperienced in the working of parliamentary institutions. (ii) Detailed provisions had to be incorporated about the institutions of parliamentary government in the Union and in the different kinds of component units. (iii) Since India was constituted into a Union of States, legislative, administrative and financial relations between the two sets of government had to be defined. Moreover, the Union was to be made quite strong, so several unitary features had to be provided. (iv) The Constitution provides for alterations in the boundaries of the units, citizenship, language and special provisions for certain communities. (v) It also provides (a) machinery for fair and free elections, (b) all India Civil Services and public service commissions, (c) Attorney General for the Union and his Counterparts in the States, (d) The Supreme Court and judicial organisation in the States. (e) Procedure for amendment and a number of transitional provisions. (vi) The makers of the Constitution wanted to impress upon the governments and future generations that the Constitution was not only a legal document but also an instrument of social change. (vii) Emergency provisions had to be made. (viii) Several controversial issues of the past had to be resolved.

Indian Constitution is not Indigenous. 'We wanted the music of Veena or Sitar', lamented one Constituent Assembly member, 'but here we have the music of an English band.' Another Assembly member characterised the Constitution as 'a slavish imitation of the West.' Some other critics pointed out that the Constitution was not indigenous, as ancient Indian political institutions and Gandhian ideas have not been given due place in it. Regarding the charge of unindigenouness it may be said that two different trends of opinion were found among its votaries. One of these wanted the constitution to follow the ancient Hindu model, while the other deriving its inspiration from the utterances of Mahatma Gandhi, would have it based on autonomous village and district republics sending their representatives to constitute the higher governmental authorities of the States and the Union. Widest possible decentralization of functions and powers to the village units was the essence of this view. As far as the ancient Hindu model was concerned, the difficulty was two-fold : first, there was not one Hindu model but several as the books on ancient Hindu polity show. The other difficulty was that the Hindu constitutional models were in a state of arrested development for more than a thousand years and offered no guidance or solution

for many of the situations and problems which a modern constitution must provide for.

'As for the Gandhian plan which contemplated a pyramid like constitutional structure, that would have reproduced the constitutional arrangement which the Congress (party organisation) has had for many years. But what is suitable for the organisation of a party is not necessarily suited to the organisation of the State, because the functions of the two are essentially different. Moreover, Gandhiji and his followers never elaborated the panchayat system so as to make it suitable for a vast country like ours, particularly in the context of modern times. Democracy on the basis of universal adult franchise cannot be workable without the formation of parties, while Gandhians would have liked to adopt a partyless democracy. A centralised and powerful State is a must, if it has to maintain its integrity and security and if it also wants to make progress, we cannot have enough strength without the aid of heavy and large-scale industries, which in turn require the development of science and technology.' This we have been able to achieve under our Constitution. However, it may be added that the Constitution does incorporate certain provisions, fulfilling what Gandhiji desired, for example, the abolition of untouchability, organisation of village panchayats, promotion of international peace, etc.

The Indian constitution is not, however, devoid of some original features. The President of India is elected by an electorate consisting of the elected members of both Houses of Parliament and the elected members of the State Legislative Assemblies. This is a wholly new feature and an original device. The conduct of all elections at the Centre and in the States through an Election Commission is another novel feature of the Indian constitution. In the procedure for amendment of the constitution, a wise balance between extreme rigidity and undue flexibility has also been achieved. Two other features, characteristically Indian may briefly be stated as follows.

First is consensus which is a manner of making decisions by unanimity or near-unanimity. It is a recognition that majority rule may not be a successful way to decide political conflicts in which human emotions are very deeply involved. It is also a realisation that a decision would have more moral and political force if, say, ninety of the one hundred persons agreed to it. Assembly leaders understood this well and bent their energies towards this goal in the hope and expectation that the Constitution framed by consensus, would work effectively and thus prove durable. Their efforts were

rewarded. During the Third Reading one of the more independent-minded Assembly members, Thakur Das Bhargava, was able to say 'I am really very glad that we have been able to prepare such a splendid constitution with unanimity.'

India's second original contribution to constitution-making was accommodation, i.e. the ability to reconcile, to harmonize, and to make apparently incompatible concepts work, without changing their content. To compromise is to settle an issue by mutual concession, each party giving up the portion of its desired end that conflicts with the interests of the other parties. The provisions of the language chapter of the Constitution are a compromise. With accommodation, concepts and viewpoints, although seemingly incompatible, stand intact. This attitude has been described thus : 'The most notable characteristic in every field of Indian activity...is the constant attempt to reconcile conflicting views or actions, to discover a workable compromise, to avoid seeing the human situation in terms of all black or all white'.¹

Conclusion. A crisis of some magnitude developed prior to the imposition of emergency in 1975, which led to a keen debate about fundamental changes in the Constitution. The result was the 42nd amendment passed in November 1976.² When the Janata Party came to power in 1977 the only change that it could bring about was that some of the provisions of the 42nd amendment were reversed. The Constitution has grown as a result of 46 amendments made so far and some of the conventions that have been established. The basic political system, however, remains unchanged, although the directive principles of state policy have been given primacy over fundamental rights. This is in keeping with the spirit of the Constitution, which is also a social document pointing towards the establishment of a Welfare State, so essential for ensuring social and economic justice for all the people.³

'When trying to find shortcomings in our Constitution, let us

¹ G. Austin, *The Constitution of India : Corner-Stone of a Nation*, pp. 311-17.

² 'The Indian Constitution as it stands to-day may, indeed, contain in essence the embryonic possibilities to deal with all of India's problems.... In retrospect, it was ill-thought out, hastily considered and a sinister attempt to concentrate power under the guise of a social revolution'. Rajeev Dhavan, *The Amendment Conspiracy or Revolution*, p. 147.

³ The question of replacing the parliamentary form of government by a presidential system has been discussed in Chapter 29.

never forget that it is not the Constitution which has failed the people, it is our chosen representatives who have failed the Constitution.' Two long-term questions arise: Do we deserve our Constitution? And are we not singularly dumb in leaving the governance of this country exclusively to professional politicians? 'Our Constitution is not a structure of fossils like a coral reef, and is not intended merely to enable politicians to play their unending game of power. It is animated by the noblest principles of justice and the rule of law, and is framed to ensure that democracy and civil liberty may survive in India when the raucous voices of today are lost in the silence of the centuries.¹

¹ N.A. Palkhivala, *'The Constitution and the President'*; Indian Express, 4 Aug. 1979.

CHAPTER 4

Amending Procedure and Amendments

I. Amending Procedure.

Power of amendment and the procedure therefor have been laid down in article 368 of the Constitution. Section (i) of the article says : 'Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.' The procedure as laid down is that an amendment to the Constitution can be initiated only by the introduction of a Bill for the purpose in either House of Parliament. If such a Bill is passed by each House by a majority vote as well as by a two-thirds majority of the members present and voting, and thereafter assented to by the President, the Constitution will stand amended in terms of the Bill.

But it is further provided that when an amending Bill seeks to amend any of the following, it must be ratified by at least half the legislatures of the States specified in Parts A and B, before it is presented to the President for assent : (i) Articles 54 and 55 dealing with the election of the President. (ii) Article 73 dealing with the extent of the executive power of the Union. (iii) Article 62 dealing with the extent of the executive power of the States in Part A. (iv) Article 241 dealing with the High Courts in States in Part C. (v) Chapter IV of Part V dealing with the Union Judiciary. (vi) Chapter V of Part VI dealing with High Courts in the States. (vii) Legislative Relations between the Union and the States. (viii) The Legislative Lists.

From the above, it is clear that the provision for amendment of the Constitution is in conformity with the principles of federalism.

The Union Parliament cannot amend any provisions dealing with the demarcation of legislative and executive spheres unilaterally i.e. without the consent of at least half the Legislatures of States, which enjoy an autonomous status under the Constitution. If it were not so, the Union Parliament would have been supreme and as such in a position to destroy the autonomy of the States. 'The procedure laid down by the Constitution for its amendment is neither too easy as in England, nor too difficult as in the United States. In England an ordinary legislation of Parliament can amend the Constitution. In the United States, however, every amendment must be proposed either by 2/3rds majority of each House of Congress or by a special convention called for the purpose. If 3/4th of the States agree to the amendment, it becomes part of the Constitution. The Constitution of India, however, strikes a middle course thereby avoiding extreme rigidity or extreme flexibility.'¹

Section (3) of the article says that 'nothing in article 13 shall apply to any amendment made under this article.' In other words, the State shall not make any law which takes away or abridges the rights conferred by the Constitution and any law made in contravention of this clause shall, to the extent of contravention, be void. Different view points with respect to the question whether Parliament could modify fundamental rights have been discussed in section V of the Chapter. This much may, however, be added here that the following provisions were inserted in the Constitution by the 42nd amendment of the constitution in 1976 :

(4) No amendment of this constitution (including the provisions of Part III (i.e. re : fundamental rights) made or purporting to have been made under this article whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976 shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of the Constitution under this article.

The Rules Committee of the Lok Sabha held on December 9 that the special two-thirds majority was required for Constitution (Amendment) Bill only at the final stage of passing of the Bill and not during the preceding stages. The Committee concluded that in

¹ Amarnandi, *The Constitution of India*, p. 180.

accordance with the provisions of articles 100(1) and 368 of the Constitution and their correct legal interpretation the special majority should be required only at the final stage of passing. However, with regard to omnibus Bills involving amendment of various articles on different aspects or subjects of the Constitution, it felt that members may be divided on different provisions on different lines. In such a case, the Committee said that the position of members might become anomalous and their votes might not reflect their true feelings on different provisions if voting by a special majority was confined at the final stage. It has, therefore, recommended that in future each Bill seeking to amend the Constitution should deal with only one single aspect or subject.¹

II. Amendments : From 1st To 23rd.

1st. During the first 15 months of the working of the Constitution, certain difficulties had been brought to light by judicial decisions and pronouncements specially in regard to fundamental rights. Thus, the citizen's right to freedom of speech and expression under article 19(1)(a) had been held by some courts to be so comprehensive as not to render a person culpable even if he advocated murder and other crimes of violence. Again, although the citizen's right, under article 19 (1) (g), to practise any profession or to carry on any occupation, trade or business was subject to "reasonable restrictions", which the laws of the state might impose 'in the interests of the general public', and although these words were comprehensive enough to cover any scheme of nationalisation which the State might undertake, it was considered desirable to place the matter beyond doubt by a clarificatory addition to article 19(6).

The first amendment which retrospectively amended article 19(2). was provoked by the decision of the Supreme Court in the *Ramesh Thapar V. State of Madras* and *Brij Bhushan V. State of Delhi* cases, decided in 1950. In the first case, the Supreme Court's majority verdict was that the Madras Maintenance of Public Order Act, 1949 authorised the imposition of restrictions for purposes of securing public safety and for the maintenance of public order and that these restrictions were wider than those relating to the security of the State. As the restrictions imposed were wide enough to cover permissible as well as impermissible restrictions, the judges held that the

¹ I.C.P.S Bulletin 1970.

law must be struck down as a whole since the restraint put on the freedom of speech was not justified by article 19(2).

2nd. The original article 81 (1) (a) prescribed an absolute limit of 500 elected members in the House of the People. Article 81 (1) (b) provided that the States shall be divided, grouped or formed into territorial constituencies and the number of members to be allotted to each constituency shall be so determined as to ensure that there shall not be less than one member for every 750,000 of the population and not more than one member for every 500,000 of the population. At the first, seats were allotted in the House of the People to Part A and Part B States on the basis of one member for every 7.2 lakhs of the estimated population giving a total of 470 member to these States. The 1951 census figures were, however, higher in all cases, and in view of the overall limit of 500 members prescribed in article 81(1) (a), it was not possible to increase appreciably the total number of seats allotted to these States. It was, therefore, deemed necessary that article 81 (1) (b) should be amended relaxing the limits prescribed therein so as to avoid a constitutional irregularity in delimiting the constituencies for the purpose of readjustment of representation in the House of the People as required under article 81 (3) of the Constitution. The Amendment Act (May 1953) achieved this end.

3rd. Entry 33 of the Concurrent List enabled Parliament to legislate in respect of products of industries declared to be under Union control. In addition, Parliament was empowered by article 369, for a period of five years, to legislate in respect of certain specified essential commodities. It was not considered advisable that after article 369 lapsed on 25 January 1955, the Centre should be divested of all legal powers to control the production, supply and distribution of these essential commodities. The Amendment Act (February 1955) sought to amplify entry 33 of the Concurrent list accordingly.

4th. Some decisions of the Supreme Court had given a very wide meaning to clauses (1) and (2) of article 31. Despite the difference in the wording of the two clauses, they were regarded as dealing with the same subject. According to these decisions, even where deprivation of property was caused by a purely regulatory provision of law and was not accompanied by an acquisition or taking possession of that or any other property right by the State, the law, in order to be valid, had to provide for compensation under clause (2) of the article. It was considered necessary, therefore, to re-state more precisely the State's power of compulsory acquisition and

requisitioning of private property and distinguish it from cases where the operation of regulatory or prohibitory laws of the State resulted in "deprivation of property". The scope of article 31A also needed to be extended to cover certain categories of essential welfare legislation. Finally, the judgment of the Supreme Court in *Saghir Ahmed v. The State of U. P.* had raised the question whether an Act, providing for a State monopoly in a particular trade or business conflicted with the freedom of trade and commerce guaranteed by article 301, but had left the question undecided.

5th. Under the proviso to article 3 of the Constitution, as it stood before the amendment, no Bill for the purpose of forming a new State, increasing or diminishing the area of any State or altering the boundaries or name of any State could be introduced in Parliament, unless the view of the State Legislatures concerned with respect to the provisions of the Bill had been ascertained by the President. It was considered desirable that when a reference was made to the State legislatures for the said purpose, their views should be conveyed to the President, but it should be open to the President to extend such period whenever he considers it necessary. It was also considered desirable to provide that the Bill would not be introduced until after the expiry of such period. The Amendment Act (December 1955) amended the proviso to article 3 of the Constitution accordingly.

6th. In pursuance of clause (3) of article 286, Parliament passed an Act in 1952 declaring a number of goods to be essential to the life of the community. Since this declaration could not affect pre-existing State laws imposing sales tax on these goods the result was a wide disparity from State to State. The Taxation Enquiry Commission, made certain recommendations which were generally accepted by all the State Governments. This Amendment Act (September 1956) gave effect to the recommendations of the Commission.

7th. It was passed on 19 October 1956, following the enactment of the States Reorganisation Act, 1956. It was so far the biggest single amendment, as it made many textual changes consequent upon the abolition of Part B and Part C States. In order to implement the States Reorganisation scheme, it amended the First and Fourth Schedules. Besides amending proviso to article 131 and articles 153, 158, 169, 171, 216, 217, 222, it substituted new articles for the existing articles 220, 224, 230, 231, 232, 239, 240, 198, 221, and also added certain new articles, namely, 258A, 290A, 350A, 350B, 372A and 378A. In the Seventh Schedule it repealed entry

No. 33 of the Union List and entry No. 36 of the State List, and in their place substituted a consolidated new entry No. 42 of the Concurrent List.

8th. This Amendment Act (January 1960) extended the period of reservation of seats for the Scheduled Castes and Scheduled Tribes as well as of nominations for the Anglo-Indians in the Legislatures for another 10 years, as reasons for such provisions had not ceased to exist.

9th. The Indo-Pakistan agreements dated September 10, 1958, October 23, 1959, and January 11, 1960, which settled certain boundary disputes relating to the borders of the State of Assam, Punjab and West Bengal, and the Union territory of Tripura involved transfer of certain territories to Pakistan after demarcation. The Amendment Act amended in December 1960 the Constitution to give effect to the transfer of these territories.

10th. In deference to the desire and request of the people of Free Dadra and Nagar Haveli, embodied in a formal Resolution adopted by their Varishta Panchayat on 12 June 1961, for integration of their territories with the Union of India, the Government of India decided that these territories would form part of India as a specific Union territory with effect from 11 August 1961. The Amendment Act made appropriate amendments to the Constitution of India.

11th. The requirement of article 66(1) that members of the two Houses of Parliament should assemble at a joint sitting for the election of the Vice-President seemed to be totally unnecessary and was also likely to cause practical difficulties. It was, therefore, proposed to amend the article. Moreover, it was possible that the elections to the two Houses of Parliament might not always be completed before the election of the President or Vice-President. It was, therefore, proposed also to amend article 71 pertaining to matters relating to the election of the President or Vice-President. The Amendment Act passed in 1961 gave effect to the two proposals.

12th. On the acquisition of the territories of Goa, Daman and Diu with effect from December 20, 1961, these territories had, by virtue of sub-clause (c) of clause (3) of article 1 of the Constitution, been comprised within the territory of India from that date and were being administered as a Union territory by the President through an Administrator in accordance with article 239 of the Constitution. It was, however, considered desirable that Goa, Daman and Diu should be specifically included as a Union Territory in the First

Schedule to the Constitution. It was also considered that clause (1) of article 240 should be suitably amended to confer power on the President to make regulations for the peace, progress and good government of Goa, Daman and Diu. The Amendment Act passed in 1962 made these provisions.

13th. An agreement in July 1960, between the Government of India and the leaders of the Naga People's Convention, provided for the formation in the Union of India of a separate State of Naga Hills. It was also decided that the Acts of Parliament, in respect of certain specified subjects, would not apply to Nagaland unless so decided by Nagaland Legislature. As these matters were peculiar to the proposed new State of Nagaland, provision with respect thereto had to be made in the Constitution itself. This Amendment Act (1962) accordingly amended the Constitution by inserting new article 371A to provide for the aforesaid and ancillary matters.

14th. The French establishments of Pondicherry, Karikal, Mahe and Yanam became territories of the Indian Union with effect from 16 August 1962. The Amendment Act conferred necessary legislative powers on Parliament through a new article 239A to enact law for creating Legislatures and Council of Ministers in certain Union territories, broadly on the pattern of the scheme which was in force in some of the Part 'C' States before the re-organisation of the States. The new article 239A follows generally the provisions of article 240 as it stood before the re-organisation of the States.

15th. The Law Commission in their Fourteenth Report had recommended that the retiring age of the High Court Judges be raised to sixty-five years. On a careful consideration of the recommendations it was decided to raise the retiring age to sixty-two and to amend the Constitution accordingly. (ii) Whenever any question arose as to the correct age of a judge of the Supreme Court or a High Court the question had to be decided by the President. (iii) It was considered desirable, in public interest, that judges should be transferred from one High Court to another. The Act provides for the payment of some compensatory allowance to a judge, so transferred. The Amendment Act, 1963 amended the provisions in these respects.

16th. The Committee on National Integration and Regionalism, appointed by the National Integration Council, recommended that article 19 be so amended that adequate powers become available for the preservation and maintenance of the integrity and sovereignty of the Union. The Committee was further of the view that

every candidate for the membership of a State Legislature or Parliament, and every aspirant to, and incumbent of, public office should pledge himself to uphold the Constitution and to preserve the integrity and sovereignty of the Union and, with that end in view, desired that forms of oath in the Third Schedule to the Constitution should be suitably amended. The Amendment Act, 1963 gave effect to these objects.

17th. Article 31A of the Constitution provided that a law in respect of acquisition by the State of any estate would not be deemed to be void on the ground that it was inconsistent with article 14, 19 or 31. The expression "estate" had been defined differently in different States. As a result of the transfer of land from one State to another under the scheme of re-organisation of States, the expression came to have different connotations even in parts of the same State. The amendment passed in 1964, therefore, modified the definition of "estate" in article 31-A and amended the Ninth Schedule by including therein State enactments.

18th. The amendment made on 29 August 1966, extended the scope of article 3 and empowered Parliament to establish Union Territory while reorganising a State within the territories of the existing State or *vice versa*. However, when a Union Territory is intended to be merged into a neighbouring State the reference under the Proviso need be made only to the State Legislature. Although a Legislature might exist in a Union Territory, it does not have the benefit of the Proviso ; and Parliament can itself decide the issue of its separate existence without any reference to the legislature of the Territory.

19th. The Act (1966) gave effect to the recommendation made by the Election Commission, in its Report on the Third General Elections in India in 1962 relating to the abolition of election tribunals and trial of election petitions by High Courts.

20th. According to two recent judgments of the Supreme Court, appointments of district judges in Uttar Pradesh and a few other States were rendered invalid and illegal on the ground that such appointments had not been made in accordance with the provisions of article 233 of the Constitution. The Supreme Court also held that the power of posting a district judge under article 233 did not include the power of transfer of such a judge from one station to another and that the power of transfer of a district judge was vested in the High Court under article 235. The amendment of 1966 validated the judgments, decrees, orders and sentences passed or made heretofore

by all such district judges in those States and also validated the appointment, posting, promotion and transfer of such district judges barring those few who were not eligible for appointment under article 233.

21st. Following persistent demands from the Sindhi-Speaking people and the recommendation of the Commissioner for Linguistic Minorities, the Union Government, on 4 November 1966, announced its decision to include the Sindhi language in the Eighth Schedule to the Constitution. The Amendment Act gave effect to that decision in 1967.

22nd. On 11 September 1968, the Government of India announced the broad details of the scheme for constituting within the State of Assam an autonomous State comprising certain areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule of the Constitution. The Act amended in 1969 the Constitution to enable Parliament to enact a law to give effect to the said scheme.

23rd. More than ninety percent of the population of the State of Nagaland, which came into being in 1963 is tribal. It was, therefore, proposed not to make any reservation for the Scheduled Tribes in Nagaland either in the Lok Sabha or in the State Legislative Assembly. However, the amendment of 1969 allowed reservation of seats for *Schedule Castes and Tribes* to continue even after the expiry of the period of 20 years.

III. Amendments : From 24th. To 43rd.

24th. The Amendment Act was passed on 5 November 1971. It restored to Parliament its power to modify any part of the Constitution, including fundamental rights. The amendment was effected to get over the difficulties created by the Golaknath case judgment. The bill sought to amend article 368 suitably for the purpose and makes it clear that article 368 provides for amendment of the Constitution as well as procedure therefor. It also sought to amend article 13 to make it inapplicable to any amendment of the Constitution under article 368.

25th. It sought irrevocably to divest the Supreme Court of the power to go into the quantum of compensation for take-over of property for public purposes. Towards this end, it replaced the word "compensation" in the Constitution by the word "amount" for property acquired or requisitioned. A new clause 31 (C) was incorpora-

ted in the Constitution by which, if Parliament certified that a bill was intended to ensure equitable distribution of material resources or to prevent concentration of economic power, it could not be challenged either under article 14 (equality before law), article 19 (right to property, freedom of association, speech etc.) or article 31 (on deprivation of property except under authority of law).

Different Views about Parliament's Power of Amendment. Defending Constitutional amendments by which Parliament had reasserted its power to modify the fundamental rights, H.M. Seervai on 17 January 1973 in the Supreme Court contended that there was nothing wrong for Parliament to say that in given cases the Directive Principles of state policy would prevail over certain Fundamental Rights. Niren De, Attorney-General, on 20 February 1973, also argued before the Supreme Court that Parliament's power, under article 368, to amend the Constitution was absolute and unrestricted so long as the specific and elaborate procedure prescribed for such amendments was followed. But N.A. Palkhivala argued on 16 March 1973 in the Supreme Court that the amending power of Parliament was bound by "inherent and implied limitations." The amending power of Parliament did not extend to "subverting the Constitution itself."

In an article 'Parliament and Amending Power' Justice P.B. Gajendragadkar, Chairman Law Commission, wrote : 'In construing article 368, it is also essential to remember that the heading of Part XX is "Amendment of the Constitution." The debates in the Constituent Assembly clearly show that two competing views were expressed about the constituent power proposed to be conferred on Parliament : one was that the power should be more liberal, and the other was that it should be more restricted. 'I have already emphasised my view about the plenary character of the constituent power conferred on Parliament by article 368 as it was originally adopted by the Constituent Assembly and I have briefly tried to indicate, why the Constitution (Twenty-fourth Amendment) Act and (Twenty-fifth Amendment) Act were passed.'¹

In their judgment on 24 April 1973 Justice Hegde and Justice Mukherjea held that Parliament always had the power to amend the Constitution. Though the power was "a very wide power", yet it did not include "the power to destroy or emasculate the basic elements or the fundamental features of the Constitution". Other justices—

¹ Oudh University Publication, 1976.

J. M. Shelat, A. N. Grover and H. R. Khanna—also concurred. Justice H. R. Khanna wrote : ‘The words “amendment of the Constitution” with all their wide sweep and amplitude cannot have the effect of destroying or abrogating the basic structure or framework of the Constitution. It would not be competent under the garb of amendment for instance, to change the democratic government into dictatorship or hereditary monarchy, nor would it be permissible to abolish the Lok Sabha and the Rajya Sabha’.¹

According to the former Chief Justice Sikri, the basic structure may be said to consist of the following features : (1) Supremacy of the Constitution : (2) Republican and democratic form of government : (3) Secular character of the Constitution : (4) Separation of powers between the legislature, the executive and judiciary : and (5) Federal character of the Constitution. Justice Shelat and Justice Grover, in their joint judgment, while illustrating and not cataloguing the basic elements of the constitutional structure, mentioned the following : (1) The supremacy of the Constitution. (2) Republican and democratic form of government and sovereignty of the country ; (3) Secular and federal character of the constitution ; (4) Demarcation of powers between the legislature, the executive and the judiciary ; (5) The dignity of the individual secured by the various freedoms and basic rights in Part III and the mandate to build a welfare state contained in Part IV ; (6) The unity and the integrity of the nation.²

26th. The concept of rulership, with privy purses and special privileges unrelated to any current functions and social purposes, was incompatible with an egalitarian social order. Government, therefore, decided to terminate the privy purses and privileges of the Rulers of former Indian States. It was necessary for this purpose, apart from amending the relevant provisions of the Constitution to insert a new article therein so as to terminate expressly the recognition already granted to such Rulers and to abolish privy purses and extinguish all rights, liabilities and obligations in respect of privy purses. So the Amendment Act 1971 inserted a new provision—article 363-A providing for non-recognition of “any person who at any time...was recognised by the President” as the Ruler of

¹ ‘Basic Features of Statute ; I. Limitation of Parliament’s Powers’, Times of India, 27 Dec. 1977.

² H. R. Khanna, ‘Basic Feature of Statute : II—Two Suggestions’, Times of India, 28 Dec. 1977.

an Indian State ; and further, it declared that privy purse "is abolished and all rights, liabilities and obligations in respect of privy purse are extinguished." Consequently, article 291 was omitted and article 366 (22) was amended.

27th. As a part of the scheme of reorganisation of the north eastern areas, it was proposed that the Union territory of Mizoram contemplated under the scheme should have a legislature and a Council of Ministers. It was proposed to achieve this object by including the Union territory of Mizoram in article 239 A of the Constitution. With the Union territory of Manipur becoming a State under the re-organisation scheme, section 52 was to cease to be operative. It was, therefore, proposed, as a part of the scheme of safeguards for the people of Hill Areas, that this arrangement should continue even after Manipur became a State. So, a specific provision was proposed to be made in the Constitution for the formation of such a committee. The Amendment Act (December 1971) gave effect to the above proposals.

28th. Article 314 of the Constitution guaranteed to persons appointed by the Secretary of State in India and who continued to serve after the commencement of the Constitution under the Government of India or of a State the same conditions of service as respects remuneration, leave and pension etc. as such persons were entitled to immediately before such commencement. But such a provision was incompatible with the changed social order. The Amendment Act 1972, therefore, provided for the deletion of article 314 and for the inclusion of new article 312A which confers powers on Parliament to vary or revoke by law the conditions of service of the aforesaid officers.

29th. The amendment (June 1972) led to the inclusion of the Kerala Land Reforms (Amendment) Acts, 1969 and 1971 in the Ninth Schedule so that they might have the protection under article 31B; and any uncertainty or doubt that might arise in regard to the validity of those Acts was removed.

30th. This Amendment Act (February 1972) 119 gave effect to the recommendations of the Law Commission of India in its forty-fourth and forty-fifth reports. The Law Commission recommended that clause (a) and (b) of article 133 (1) of the Constitution should be omitted and that an appeal should lie to the Supreme Court only if the High Court certifies that the case involves a substantial question of law of general importance and that in the opinion of the High Court the said question needs to be decided by the Supreme

Court.—The amendment of the article accordingly curtailed the number of appeals which could be filed in the Supreme Court merely on the valuation test being satisfied, without any merit in them.

31st. Clause (1) of article 81 of the Constitution provided that there shall be direct election from territorial constituencies in the States and not more than 25 members would represent the Union territories chosen in such manner as Parliament might by law provide. As a result of the enactment of the North-Eastern Areas (Re-organisation) Act, 1971 (81 of 1971), the total number of seats in the Lok Sabha allotted to the States increased to 506 ; the actual number of elected members at the time was 522 (16 from the Union Territories). It was felt that it would be better to ensure that any re-adjustment and consequent allocation of seats did not adversely affect the existing number of seats allotted to each State in the House of the People and to achieve this purpose it was felt necessary to increase the strength of the Lok Sabha suitably.

32nd. The Amendment Act (1973) provided the necessary constitutional authority for giving effect to the Six-Point Formula in so far as it related to the provision of equitable opportunities for the people of different areas of the (Andhra Pradesh) State in the matter of admission to educational institutions and public employment. The Act provided, inter alia, for the constitution of an Administrative Tribunal to deal with certain disputes and grievances relating to public services. It also authorised Parliament to legislate for establishing a Central University in the State and contains provisions of an incidental and consequential nature including the provision for the validation of certain appointments made in the past. As the Six-Point Formula provided for the discontinuance of the Regional Committees constituted under clause (1) of article 371 of the Constitution, the Act also provided for the repeal of that clause.

33rd. Article 10(3)(b) and 190(3) of the Constitution permitted a member of either House of Parliament or a member of a House of Legislature of a State to resign his seat by writing under his hand addressed to the Speaker or the Chairman, as the case might be. In the recent past, there had been instances where coercive measures had been resorted to for compelling members of a Legislative Assembly to resign their membership. If this was not checked, it might become difficult for legislatures to function in accordance with the provisions of the Constitution. It was, therefore, proposed to amend the above two articles to impose a requirement as to acceptance of the resignation by the Speaker or the Chairman and to provide that

the resignation shall not be accepted by the Speaker or the Chairman if he was satisfied after making such inquiry as he thought fit that the resignation was not voluntary or genuine. The Amendment Act 1974 achieved the above object.

34th. The Chief Minister's Conference held on 23 July 1972, had made important suggestions with regard to reduction in the level of ceiling on land holdings, application of ceiling on the basis of land held by a family and the withdrawing of exemptions. The suggestions of the Chief Ministers' Conference were accepted by the Government of India and necessary guidelines were issued to the State Government for making necessary amendments in their land-ceiling Acts. The State Governments accordingly amended them. By the 34th Amendment Act, 1974 such amended Acts were included in the Ninth Schedule of the Constitution, so that they could not be challenged in the Courts for violation of constitutional provisions.

35th. and 36th. With a view to giving effect to the wishes of the people of Sikkim and for strengthening Indo-Sikkim co-operation and inter-relationship, the 35th Amendment Act, 1947 sought to amend the Constitution to provide for the terms and conditions of association of Sikkim with the Union. The terms and conditions were set out in the Tenth Schedule added to the Constitution by clause 5 of the Act. In response to an opinion poll held in Sikkim on 14 April 1975 and unanimous resolution passed by the Sikkim State Assembly, (on 10 April 1975), the Government of India decided to include Sikkim as a full-fledged State in the First Schedule to the Constitution. The 36th Amendment Act, 1975 was passed to achieve this object.

37th. This Amendment Act, 1975 sought to include Arunachal Pradesh in article 239, i.e. make it a Union Territory. Under article 240 of the constitution, the President was empowered to make regulations for the Union territory of Arunachal Pradesh. With the Constitution of a Legislative Assembly for the Union territory, it was proposed to provide that, as in the case of other Union territories with Legislatures, this power might be exercised only when the Assembly was either dissolved or its functioning remains suspended. The Act sought to amend article 240 also to achieve this object.

38th. This Amendment Act 1975 made the following amendments: In article 123 after clause (3), the following clause was inserted: '(4) Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any

ground'. In article 213 after clause (3), the following clause was inserted : '(4) Notwithstanding anything in the Constitution, the satisfaction of the Governor mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground.' In article 239B after clause (3), the following clause was inserted : '(4) Notwithstanding anything in this Constitution, the satisfaction of the administrator mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground'.

In article 359 after clause (1) the following clause was inserted : '(1A) while an order made under clause (1) mentioning any of the rights conferred by Part III is in operation, nothing in that part conferring those rights shall restrict the power of the State to make any law or to take an executive action which the State would be competent to make or to take,...' In article 360 after clause (4) the following clause was inserted : 'Notwithstanding anything in the Constitution (a) the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground ; and (b) subject to the provisions of clause (2) neither the Supreme Court nor any other court shall have jurisdiction to entertain any question, on any ground, regarding the validity of (i) a declaration made by Proclamation by the President to the effect stated in clause (1) ; or (ii) the continued operation of such Proclamation'.

39th. This Amendment Act, 1975, substituted the following article in place of article 71 : '71. (1) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President, including the grounds on which such election may be questioned : Provided that the election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him. (2) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be enquired into and decided by such authority or body and in such manner as may be provided for by or under any law referred to in clause (1).

In Part XV of the Constitution, after article 329, the following article was inserted, namely : '329A. (1) Subject to the provisions of Chapter II of Part V (except sub-clause (e) of clause (1) of article 102), no election (a) to either House of Parliament of a person who

holds the office of Prime Minister at the time of such election or is appointed as Prime Minister after such election ; (b) to the House of People of a person who holds the office of Speaker of that House at the time of such election or who is chosen as the Speaker for that House after such election ; shall be called in question, except before such authority (not being any such authority as is referred to in clause (b) of article 329) or body and in such manner as may be provided for by or under any law made by Parliament and any such law may provide for all other matters relating to doubts and disputes in relation to such election including the grounds on which such election may be questioned. (2) the validity of any such law as is referred to in clause (1) and the decision of any authority or body under such law shall not be called in question in any court. (3) Where any person is appointed as Prime Minister or, as the case may be, is chosen to the office of the Speaker of the House of the People, while an election petition referred to in clause (b) of article 329 in respect of his election to either House of Parliament or as the case may be, to the House of the People is pending, such election petition shall abate upon such person being appointed as Prime Minister or, as the case may be, being chosen to the office of the Speaker of the House of the People, but such election may be called in question under any such law as referred to in clause (1).

40th. This Amendment Act (May 1976) substituted a new article 297 so as to vest in the Union of India all lands, minerals and other things of value underlying the ocean within the territorial waters or the continental shelf or the exclusive economic zone of India. It also included 64 Central and State laws in the Ninth Schedule so as to protect them from being challenged in the courts.

41st. The Constitution (41st Amendment) Act, 1976 sought to raise the age of retirement of the chairmen and members of the State Public Service Commissions from 60 to 62 years by amending article 316 (2) of the Constitution.

IV. Amendments : From 42nd to 46th.

42nd. This Amendment Act, passed in November 1976 made the following important changes :

Article 31C as previously worded saved only laws giving effect to the Directive Principles specified in clause (b) and clause (c) of article 39 from attack on the ground of infringement of fundamental rights contained in article 14, 19 and 31. The amendment widened

the scope of the article so as to cover all the Directive Principles enumerated in Part IV. New article 31D provides for making of Parliamentary law to prevent or prohibit anti-national activities and to prevent or prohibit the formation of anti-national associations. New article 32A provides that the Supreme Court shall have no jurisdiction to decide the constitutional validity of a State law in any proceedings under article 32 unless the validity of a Central Law is also in issue in such proceedings. The High Court will have no jurisdiction in such cases.

Article 39 has been amended to emphasize the constructive role of the State with regard to children. New Directives have been added in Part IV to provide for : a) free legal aid to economically backward classes; b) participation of workers in the management of organisations engaged in any industry; and c) protection and improvement of environment and safeguarding of forests and wild life. The Constitution, as originally enacted, did not contain any provisions specifying the fundamental duties of citizens. New Part IVA now enumerates ten fundamental duties. (mentioned in chapter 5).

The President acts on the advice of the Council of Ministers, It was made explicit that he shall be bound by such advice (Article 74). Article 77 (3) and 166(3), as originally enacted, provided for the framing of rules for the convenient transaction of Government business which rules are treated by the Government as confidential. However, courts had been found to summon these rules for production. It was considered that this should be prevented. A new clause was, therefore, added to these articles to provide that no court or authority shall compel production of these rules.

In the context of the intensification of the family planning programmes, it was considered that not only the allocation of seats in the House of the People to the States and the total number of seats in the Legislative Assemblies of the States but also the extent of Parliamentary and Assembly constituencies and reservation of seats for Schedule Castes and Scheduled Tribes as determined on the basis of the 1971 census, should be frozen till the year 2001. Article 55 relating to the manner of election of the President, articles 81 and 82 relating to the Lok Sabha, article 170 relating to the Legislative Assemblies of States and article 330 and 332 relating to reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and Legislative Assemblies were accordingly amended. The duration of the Lok Sabha and the State Legislative Assemblies was changed from five to six years. A consequential amendment

was also made in article 371F(c) relating to Sikkim Legislative Assembly.

Previously the Constitutional validity of a Central law could be questioned either before the Supreme Court or the High Court. This scheme was altered for the reason if a number of High Courts give differing judgments as regards the validity of a Central law, the implementation of the Central law would become difficult. The Supreme Court, in the new scheme was invested with exclusive jurisdiction as regards determination of the constitutional validity of Central laws. Where a case involves constitutional validity of both a Central law and a State law, the Supreme Court alone has jurisdiction to determine the constitutional validity of such laws. It was provided that the minimum number of judges of the Supreme Court who shall sit for determining any question as to the constitutional validity of a Central Law or of a Central and a State Law shall not be less than seven and that a Central or State law shall not be declared to be constitutionally invalid unless not less than two-thirds of the judges hearing the case hold the same to be constitutionally invalid.

New articles 226A and 228A sought to exclude from the jurisdiction of High Courts questions as to constitutional validity of Central laws and provide for the minimum number of judges of a High Court who shall sit for determining any questions as to the constitutional validity of a State Law. The minimum number was fixed at five but where a High Court consists of less than five judges, all the judges were to sit excepting those disqualified, by reason of pecuniary or personal bias. Where the number of judges hearing a question as to the constitutional validity was not less than five the decision as to constitutional validity was to be made by a majority of not less than two-thirds and where the number of judges was less than five the law, in issue could not be declared to be constitutionally invalid, unless all the judges held it to be constitutionally invalid.

New Article 257A was inserted to empower the Union to send any armed force or other force of the Union for dealing with any grave situation of law and order in any State. Such force shall act in accordance with the directions of the Central Government and shall not be subject to the control of the State Government. Provisions has also been made to empower Parliament to define by law the powers, functions and the liabilities, etc., of the members of such force, when deployed in a State, during the period of

deployment.

Article 31(2) was amended to deny a Government servant the opportunity to make a representation at the second stage of the inquiry against the penalty proposed to be imposed on him in a disciplinary proceeding. Article 312 relating to All-India Services was amended to provide for the creation of an All-India Judicial Service by a Parliamentary law. Such service shall not include any post inferior to that of a district judge.

A new Part XIVA which consists of articles 323A and 323B, has been inserted. The former article provides for the setting up of Administrative Tribunals by a Parliamentary law for determining disputes relating to the recruitment and conditions of service of Union Government servants and servants of the States including the employees of any local or other authority within the territory of India or under the control of the Government of India or of a corporation owned or controlled by the Government. Such law will provide for the constitution of a tribunal for the Union and for a separate tribunal for each State or for two or more States and define the jurisdiction and powers of such tribunals. New article 323B provides for the creation of tribunals for the determination of disputes, complaints and offences respecting the various matters specified therein.

Under old article 352, a proclamation of Emergency could not be made in respect of a part of the country. The amendments made in article 352, 353, 358 and 359 are for enabling the President to make a Proclamation of Emergency in respect of a part of the country or, as the case may be, to restrict a Proclamation of Emergency made in respect of the country as a whole to a part of the country. Under old article 356, a Proclamation approved by Parliament ceased to be in operation after a period of six months unless revoked earlier and could be renewed for a period of six months at a time but in no case beyond a total period of three years. The period of six months has now been enlarged to one year. Clause (2) of the article 357 was substituted by a new clause to the effect that any law made by Parliament or the President or any other authority in exercise of the powers of the State Legislature under article 356 shall continue in force until altered, repealed or amended by the competent Legislature or other authority.

Articles 83 and 172 were amended so as to extend the duration of Lok Sabha and the State Legislative Assemblies from five to six years. By sub-section (2) of section 17 of the Forty-second

Amendment Act, it was provided that the extension would apply also to the existing Lok Sabha and the State Legislative Assembly and that this extension did not affect Parliament's power to extend its or any State Legislative Assembly's term during emergency in accordance with the proviso to clause (2) of article 83 or to clause (1) of article 172.

43rd Amendment. The Lok Sabha elections held in March 1977 brought about a radical transformation of the political scene. The crushing defeat of the Congress Party led to the formation of Janata Party Government in the Centre. The new Government announced that a comprehensive measure would be brought before Parliament to amend the Constitution so as to restore the balance between the people and Parliament, Parliament and judiciary, judiciary and executive, States and Centre and citizens and Government.

While the 42nd Constitution Amendment was intended to establish the supremacy of the Legislature, both in truth and in fact, the 43rd Constitution Amendment Bill was significant in that it sought to remedy the excesses committed by the previous ministry.

The 43rd Amendment Act, 1977 omitted articles 31D, 32A, 131A, 144A, 226A, and 228A. Article 32A had barred the Supreme Court from considering the constitutional validity of any State law in proceedings for the enforcement of fundamental rights unless the constitutional validity of any Central law was also at issue in such proceedings. Article 131A had given to the Supreme Court exclusive jurisdiction to decide the Constitutional validity of a Central law and thus had deprived the High Courts of their jurisdiction in respect of the same. Article 144A had provided that the minimum number of judges of the Supreme Court who should sit for the purpose of determining the constitutional validity of any Central law or State law should be seven and had required the special majority of 2/3rds for the invalidation of such law. Under the 43rd Amendment Act special provisions were made to enable Supreme Court and the High Courts to deal with pending cases in the same manner as if the said articles had been omitted with effect from 1 February 1977. Article 31D had conferred special power on Parliament to enact certain laws in respect of anti-national activities. It was considered that these powers of Parliament to make laws for dealing with anti-national activities and anti-national associations were of a sweeping nature and were capable of abuse. Therefore,

article 31D was also omitted through 43rd amendment Act.

44th Amendment. The Amendment Act (1978) contains 45 sections. It amended 42 articles of the Constitution, inserted 6 new articles, and omitted 3 articles of the Constitution, 10 sections of the 42nd amendment and 3 entries from the Ninth Schedule. It reduced the term of the Lok Sabha and the State Legislative Assemblies from six years to five years. *Status quo ante* was, thus, restored by the amendment in respect of the terms of the lower chambers of the Centre and the States. It also amended article 103 so as to restore the position to what it was before the passage of 42nd Constitutional Amendment. The question of disqualification of a member of a House of Parliament will be decided by the President in accordance with the opinion of the Election Commission, which became binding upon the President as it was before the 42nd Constitutional Amendment. A similar change has been introduced in the case of the members of the State Legislatures.

A new article 361A was inserted in the Constitution so that no one is held liable to any civil or criminal proceedings in a court in respect of the publication in a newspaper of a substantially true report of any proceeding of either House of Parliament or a State Legislature. This immunity does not apply to publication of any report of the secret proceedings of a House. The same immunity applies to broadcasts or wireless.

The 39th Constitutional Amendment had deprived the Supreme Court of its jurisdiction to decide disputes concerning election of the President and the Vice-President. The 44th Amendment cancelled this amendment and restored to the Supreme Court its original jurisdiction in this respect. Section 35 of the Act removed the bar to interference by the Courts in electoral matters of Prime Minister and Speaker by amending article 329 of the Constitution. Section 36 omitted article 329A.

The 42nd Constitutional Amendment Act amended article 74 so as to make the ministerial advice binding on the President. This provision was not changed by the 44th Amendment Act, but a new proviso was added to article 74(1), saying that the President may require the Council of Ministers to reconsider its advice to him, either generally or otherwise, and the President shall act in accordance with the advice tendered after such consideration.

Under the amended article 352, the Proclamation of Emergency can be issued only when the security of India or any part of its territory is threatened by war or external aggression or by armed

rebellion. Internal disturbance not amounting to armed rebellion cannot be a ground for the issue of a Proclamation. Further, it has been provided that an Emergency can be proclaimed only on the basis of a written advice tendered to the President by the Cabinet. In addition, it has been provided that the Proclamation would have to be approved by the two Houses of Parliament by the same majority which is necessary to amend the Constitution and such approval would have to be given within a period of one month. Any such proclamation would be in force only for a period of six months and can be continued only by further resolutions passed by the same majority. The Proclamation would also cease to be in operation if a resolution disapproving the continuance of the Proclamation is passed by the Lok Sabha. Ten percent or more of the members of the Lok Sabha can requisition a special meeting for considering a resolution for disapproving the Proclamation.

The right to property has been taken out from the list of fundamental rights and has been declared a legal right. For the said purpose article 19 and article 31 have been changed through the process of deletion.

45th. This Amendment Act (1980) came into force from 25 January. In article 334 (dealing with reservation of seats for scheduled castes and tribes), the words "forty years" were substituted for the words "thirty years." Sections 4 and 35 of the Constitution (42nd) Amendment Act, 1976 were held unconstitutional by the Supreme Court in May 1980, since they damage the basic or essential features of the Constitution and destroy its basic structure (in *Minerva Mills Ltd. and others vs. Union of India and others*).

46th. The Constitution 46 amendment Bill received assent of the President and the Act came into force from 3 February 1983. The amendments carried out through the Act enable the Government to plug loopholes and overcome deficiencies in the administration of sales tax laws by the states. The measure was passed by Parliament following complaints from state governments about large-scale avoidance of central sales tax leviable on inter-state sales of goods through the device of consignment transfers. They also reported leakage of sales tax revenue in hire purchase transactions, works contracts, supply of foodstuffs by hotels in view of the restricted interpretation of the term 'sale' by courts.

The Constitution amendment will have to be followed up by suitable central legislation for the purpose of the levy of tax on consignment transfers and to specify restrictions and conditions

subject to which the states could levy tax on transfer of goods involved in the execution of an indivisible works contract, hire purchase transactions, lease of goods and so on. The amendment, it is stated, would enable the state governments to mobilise the much needed resources for development.

The Act inserts a new entry (92 B) in the Union list in the seventh schedule empowering Parliament to levy tax on inter-state consignment of goods. Article 269 has been amended to assign the proceeds of the tax to the states. A new clause (29A) has been added in article 366 to define tax on sale or purchase of goods to include a number of transactions.

CHAPTER 5

Fundamental Rights and Directive Principles

I. Rights of Equality and Freedom

Introduction. Regarding the necessity for the insertion of Fundamental Rights following reasons may be given: First, the *raison d'etre* for the declaration is the significance attached to the individual in the philosophy of the State. It emphasises the fact that the State exists for the citizens; for securing their welfare and for the enrichment of their personalities. Second, as the Indian Constitution is for a democratic Republic, certain rights of the citizens are absolutely vital and essential for the effective working of a democratic government. Third, looking at the history of our national movement we find that the demand for the inclusion of such rights was made from time to time. The Nehru Report published in 1928 and the Karachi Resolution of the Indian National Congress adopted in 1931 included a statement of rights which the national leaders wanted to secure for the people. The alien government did not respond to the national demand; but the national government was honour-bound to do so. Fourth, our constitution, in addition, to being a political democracy, also aims at social and economic democracy. This our Constitution has sought to do through the incorporation of fundamental rights and directive principles of the State policy.

The rights which the Constitution recognizes are fundamental, since the Constitution expressly provides that any law in force in the territory of India would be void to the extent that it is inconsistent with the provisions of fundamental rights. These rights are, in fact, rights against the 'State i.e. the Union and State Executives and Legislatures. Further, the State is prohibited from enacting any law which takes away or abridges these fundamental rights, as such

any law made in contravention of this provision will be declared void by the Supreme Court.

According to the Constitution of India, every citizen is equal to the other. None can claim to be more than any other on account of either birth, wealth or religion. All such privileges have been abolished once for all. Equal opportunities are sought to be thrown open to every citizen irrespective of caste, creed or sex. Abolition of untouchability and titles are other notable steps. A special exception, however, has been made in respect of backward classes. The fundamental rights inserted in the Constitution have been discussed in the following two sections:

RIGHTS TO EQUALITY

It has the following five aspects: (i) *Equality Before Law*. The State cannot deny to any person equality before law or the equal protection of the laws within the territory of India.

(ii) *Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth*. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth, or any of them and no citizen shall on any such ground be subject to any disability or restriction with regard to: (a) access to shops, public restaurants, hotels and places of public entertainment or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of state funds or dedicated to the general use of the public. But Parliament can make special provisions for women and children.

(iii) *Equality of opportunity in matters of public employment*. No citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them be ineligible for or discriminated against in respect of any employment or office under the State. However, nothing herein contained debars the State to make it a condition precedent that for any employment or office in a State specified in the First Schedule requirement as to residence within the State prior to such appointment shall be necessary. In addition, a State will be within its right to reserve certain appointments for any backward class of citizens, which the State thinks is not adequately represented in the services.

(iv) *Abolition of untouchability*. 'Untouchability' is abolished and its practice in any form is forbidden. (v) *Abolition of titles*. No title, not being a military or academic distinction, is to be

conferred by the State and no citizen of India shall accept any title from a foreign State.

The right to equality proclaims equality for all citizens before law, in the matter of employment and social equality. By abolishing the curse of untouchability the Constitution has done much belated justice to more than six crores of oppressed people. "The ban applies not only to public but also to private life. Any one who practises untouchability in whatever manner for whatever purpose, will be committing an offence under this article and will be punishable in accordance with law".¹ This particular constitutional provision has fulfilled the much cherished dream of the Father of the Nation ; but a legal enactment cannot go far enough in such a matter, the educated and sensible people should co-operate in the realization of this ideal. One lacuna in this regard had been the absence of any law punishing the practice of 'untouchability': This too has been removed as an Act in regard to this has been enacted by the Parliament. In the matter of appointments under the State, the concession allowed for the backward classes will give them the much needed safeguard. The provisions abolishing the conferment of titles are indicative of the democratic spirit of the Constitution.

RIGHT TO FREEDOM

The right includes the following freedoms : (i) *Protection of certain rights regarding freedom of speech, etc.* All citizens have the following rights under this : (a) to freedom of speech and expression ; (b) to assemble peaceably and without arms ; (c) to form associations or unions ; (d) to move freely throughout the territory of India. (e) to reside and settle in any part of the territory of India. (f) to acquire, hold and dispose of property ; and (g) to practise any profession, or to carry on any occupation, trade or business.

Freedom of speech is, however, not to affect the operation of any existing law relating to libel, slander, defamation, contempt of court, or any matter which offends against decency or morality or which undermines the security of, or tends to over-throw the State. Similarly the right to assemble shall not affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, in the interest of public order, reasonable restrictions on the exercise of the right.

¹K. Santhanam, *The Constitution of India*, p 20.

(ii) *Protection in respect of conviction for offences.* No person is to be convicted for any offence : except for violation of law in force at the time of the act charged as offence ; nor can he be subjected to a penalty greater than that which might have been inflicted in accordance with law operative at the time of the commission of the offence. No person is to be prosecuted and punished more than once for the same offence ; and no accused can be compelled to be a witness against himself.

(iii) *Protection of life and personal liberty.* Except in accordance with procedure established by law, no person is to be deprived of his life or personal liberty.

(iv) *Protection against arrest and detention in certain cases.* A person arrested is not to be detained without being informed as soon as may be of the grounds of the arrest and cannot be denied the right to consult or to be defended by a legal practitioner of his choice. An arrested person is to be produced before the nearest magistrate within a period of 24 hours of the arrest but in computing this period time necessary for the journey to the magistrate is to be excluded. After this, a person can only be detained with the authority of a magistrate. But the provisions described above shall not apply to any person who for the time being is an enemy alien or a person arrested or detained for preventive detention under any law.

However, no law can provide for preventive detention for more than 3 months unless : (a) before the expiry of this term it has been certified by an Advisory Board, consisting of persons qualified as, or those who have acted as Judges of High Court, that there is in its opinion sufficient cause for such detention. Further, no person detained in pursuance of such an order is entitled to receive as early as possible, the grounds on which the order has been made and must have the earliest opportunity of making a representation against that order.

The rights mentioned above are fundamental and their inclusion in the Constitution gives guarantee of individual liberty. But this right cannot be absolute, i. e., it is always relative. Individual liberty must be subordinated to the security of the State. No government can allow unrestricted liberty to persons who urge direct attempts to over-throw it by violence or the murder of its officials. Moreover, liberty is not licence. After all, one of the main purposes of government is to prevent the safety and well-being of the many from being jeopardized by one or a few. Freedom of

speech or press does not carry with it any right to incite persons to crime or panic, to voice slander or to print libels ; freedom of assembly does not entitle any group to interfere with public order and safety.

The provisions of the Constitution in regard to preventive detention are harder to justify ; they do appear to give to the executive a power the like of which does not exist in Great Britain, the U.S.A. and other countries. Nevertheless, there are considerations which can be urged in their favour. The right of passing laws providing for detention of persons about to act in a way prejudicial to public safety without reference to law courts has been vested in Parliament in the interest of public security ; so it is a measure of self-preservation and self-defence. Failure to do so would have exposed the State to grave risks. Neither the communists nor the communalists would hesitate to use violent methods for realising their aims. Further, the grant of power regarding preventive detention is subject to severe restrictions and the government of the day cannot easily abuse it. One very pertinent point of criticism is that in our Constitution the phrase 'except in accordance with procedure established by law' has been employed whereas in the constitution of U.S.A. the parallel phrase is 'due process of law'. The phrase "procedure established by law" means the procedure established by law enacted by the legislature. The word 'due' has been interpreted to mean 'just in the opinion of the courts'. This word being deliberately omitted, it is not open to the Indian courts to consider whether a certain law is reasonable or not.

The last word rests with the legislature rather than on the judiciary. "The Supreme Court of the United States has interpreted the words "without due process of law" to mean that the courts cannot only examine the procedure, they can also examine the jurisdiction of the legislature as well as the substantive law itself. They can declare a law invalid on the ground that it makes an undue invasion of the personal liberty of citizens....Thus article 21 establishes the supremacy of the Legislature over the Judiciary in certain respects. The rule of law in the American sense has not been established in India by the Constitution as the laws relating to personal liberty will not be open to judicial review." The Supreme Court and also the High Courts have the power to issue directions or orders and writs in the nature of habeas corpus, mandamus, prohibition, quo warranto, and certiorari. A writ

means a legal instrument to enforce obedience to the orders of a court. The main writs are as follows :

Habeas Corpus literally means "you may have the body." By this order, the court can have any detained persons produced before it in order to examine whether the person is being lawfully detained or not and thereafter give its decision on the application of the petitioner. This well-known writ provides a remedy for a person wrongfully detained. It has been considered as a landmark of liberty, *Mandamus* means "we command." Its purpose is to enable the court to compel an inferior body or an individual to perform some act falling within its or his duty. *Writ of Prohibition* is issued by a superior court directing an inferior court preventing it from usurping a jurisdiction with which it is not legally vested. By the writ of *Certiorari* the superior court prevents the inferior courts and courts of special jurisdiction from exceeding their proper functions. *Prohibition* differs from *certiorari* only in the fact that it can be brought at an earlier stage of the proceedings complained of ; it is preventive rather remedial. 'In any case where any person acts in an office in which he is not entitled to act, the court may grant an injunction in the nature of *Quo-warranto* restraining him from so acting.'

II. Other Rights and Duties

Right Against Exploitation. Traffic in human beings, "begar" and other similar forms of forced labour are prohibited and any contravention thereof is punishable as an offence in accordance with law. However, this shall not prevent the State from imposing compulsory service for public purposes ; but in levying such service the State can not discriminate on grounds only of religion, race, caste, etc. A child below 14 can not be employed in any factory or mine or in any other hazardous work. Traffic in human beings includes such evil practices as slavery, traffic in women and 'begar' is the traditional form of forced labour found in many parts of India.

Right to Freedom of Religion. It includes : (a) Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion. However, this does not affect the operation of any existing law or prevent the State from making law : (i) regulating or restricting economic, political or other secular activity associated

with religious practice ; and (ii) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. The wearing and carrying of 'Kirpans' is to be considered as included in the profession of the Sikh religion. In the above context the word 'Hindu' includes Sikhs, Jains and Buddhists as well.

(b) *Freedom to Manage Religious Affairs.* Subject to public order, morality, and health, every religious denomination or section thereof has the right to : (i) establish and maintain institutions for religious and charitable purposes, (ii) to manage its own affairs in matters of religion, (iii) to own and acquire movable and immovable property, and to (iv) to administer such property in accordance with law.

(c) *Prevention as to payment of taxes for promotion of any particular religion.* No person can be compelled to pay taxes which are to be specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

(d) *Freedom as to attendance at religious instruction or religious worship in certain educational institutions.* No religious instructions can be provided in any educational institution maintained wholly out of State funds. However, this is not applicable to an institution administered by the State. Any person attending an educational institution recognized or aided by the State, can not be required to take part in any religious instruction or worship, unless he, or if a minor, his guardian consents to it.

These articles, it is evident, truly constitute a charter of religious freedom for the people of India. They guarantee full freedom of conscience and of worship, while safeguarding against the possible abuses of religion, particularly against the practice frequently resorted to by some people, of using religion as a cloak to advance their personal interests at the cost of others. The freedom embodied in this right is quite appropriate. But the limitations put on it make it clear that this freedom cannot be abused by being utilized to over-ride the interests of the peace and order of society or to offend its moral standards and sensibilities. Indeed, the difficulty about this freedom arises from the fact that religion is very closely mixed up with the social life of the people. It is, therefore, necessary to disentangle the essentials of a religion from the mass of customs and practices. For example, practices such as that of 'Suttee' or other forms of human sacrifice, of

untouchability, of imposing different kinds of disabilities on women, of early marriages, bigamy, dedication of devadasis, regarding other people as Kaffirs or heathens, which are obviously abhorrent to the social conscience, cannot be tolerated even if they are supposed to be sanctified by religion.

Cultural And Educational Rights. These include (a) *Protection of interests of minorities.* Any section of the citizens residing in India having a distinct language, script or culture of its own has the right to conserve the same; but a person can not be denied admission to any educational institution maintained or aided by the State, on grounds only of religion, race, caste, language or any of them.

Right of minorities to establish and administer educational institutions. Religious or linguistic minorities have the right to establish and administer educational institutions of their choice, and the State in granting aid to such institutions can not discriminate against any institution on the ground that it is under the management of a minority.

It is to be noted that the minorities recognised for the protection of cultural and educational interests are minorities based on religion, community or language. Such recognition is unparalleled in the Constitution of other countries. The cultural and educational rights of minorities are constitutionally protected. Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own has the right to conserve the same. Apart from the difficulties of the interpretation of these provisions owing to their vagueness, they are likely to hinder the growth of national unity, a national language and national culture. But there is another aspect of this problem. India is a vast land where there is diversity of languages, scripts and other social customs. All these must be guaranteed to flourish in their own way. That is also the essence of a federal government, which seeks unity amidst diversity. The Amendment Act of 1951, however, made it clear that the State may make any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and tribes.

RIGHT TO PROPERTY

Compulsory acquisition of property with compensation. (1) A person was not to be deprived of his property except in accordance with law. (2) No property could be compulsorily acquired or

requisitioned save for a public purpose and save by authority of law which provided for acquisition or requisition of the property for an amount which might be fixed by such law or which might be determined in accordance with such principles as given and in such manner as might be specified in such law ; and no such law could be called in question in any court on the ground that the amount so fixed was not adequate or that the whole or any part of such amount was to be given otherwise in cash. This right was repealed by the 44th amendment, which came into effect from 20 June 1979.

But any Bill, pending at the commencement of this Constitution in the Legislature of a State, if passed, receives the assent of the President, will become law, notwithstanding the foregoing provisions. Such a law shall not be called in question in any court on the ground that it contravenes the provisions of clause (2). Similarly, any law of the State enacted not more than 18 months before the commencement of this Constitution might within three months from such commencement be submitted to the President for his certification and thereupon, it could not be called in question in any court of law on the ground that it contravened the provisions of Clause (2).

Saving of law providing for acquisition of Estates. etc. Article 31A, inserted by the 42nd amendment of 1976 says that notwithstanding anything contained in article 13, no law providing for (a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of such rights, or (b) the taking over of the management of any property by the State for a limited period either in public interest or in order to secure the proper management of the property ; (c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or (d) the extinguishment or modification of any rights of managing agents... ; or (e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or license for the purpose of searching for, or winning, any mineral or mineral oil, or the pre-mature termination or cancellation of any such agreement, lease or license can be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by article 14, article 19 or article 31 : Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

42nd amendment also inserted two new important articles—31C and 31D. *The former provided for saving of laws giving effect to certain directive principles.* It says : 'Notwithstanding anything contained in article 31, no law giving effect to the policy of the State towards securing all or any of the directive principles, shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31, and no law containing a declaration for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy : Provided that where such law is made by the Legislature of a state, the provision of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent. The latter (i.e. 31D) dealt with saving of laws in respect of anti-national activities. But that was repealed by the 43rd amendment of the Constitution in 1977.

Right to Constitutional Remedies. Right to move the Supreme Court, to enforce the above rights is guaranteed. The Supreme Court can issue directions or writs. Parliament can also by law empower any other court, within the local limits of its jurisdiction, to exercise all or any such powers exercised by the Supreme Court. Moreover, rights thus guaranteed are not to be suspended except as otherwise provided for by the Constitution. However, Parliament has been empowered to modify the rights conferred by this part in their application to members of the Armed Forces. In addition, when martial law is in force, in any area, Parliament can pass law to indemnify a person in the service of the Union or of a State or any other person, in respect of any act done to maintain or restore order in that area.

It is further provided that Parliament can make laws prescribing punishment for those acts which are declared to be offence under this Part, and since the commencement of the Constitution, Parliament has power to make laws to prescribe punishment for such offences. Relevant existing laws, with adaptations and modifications that may be made are to continue in force, until altered or repealed or amended by Parliament. It was characteristic of the French Constitutions that they merely proclaimed certain rights, but did not provide for the enforcement of such rights. The Indian Constitution avoids such a mistake. It has not only proclaimed the rights but has actually provided for the enforcement of the same. Thus the provision of Constitutional remedies is the 'heart and soul

of the Constitution.'

Suspension of Fundamental Rights. When a Proclamation of Emergency issued by the President, is in operation, nothing in article 19 (providing for freedom of speech, press and association, etc.) can restrict the power of the State to make law or take executive action. But any such law to the extent of the incompetency, ceases to have effect as soon as the Proclamation ceases to have effect, except as regards things done before the law so ceases to have effect. It is also provided that the President may, during such Emergency by order, declare that the right to move any court for enforcement of rights and all proceedings pending in any court, for their enforcement shall remain suspended for the entire or shorter period as may be specified in the Presidential Order. Such an order may be for the whole or any part of India and shall as soon as may be, after being made, laid before each House of Parliament.

The critics have emphasised that the above provisions strike at the root of freedom and their suspension may make the State totalitarian. But this point does not have much merit, because the security of State in an emergency must be the paramount consideration. However, there is some weight in the argument that whereas such power has been vested in the Executive in India (subject to Parliament's approval) in the U.S.A. and the United Kingdom it is possessed by the Legislature only. Articles 14, 19, 21 and 31 (provisions regarding the rights to freedom and property) taken together may be said to establish the Rule of Law in India. The Rule of Law as it is understood in Great Britain and the United States means two things : (1) no person can be deprived of life, liberty or property except for a breach of law proved in the ordinary courts ; and (2) no person (except the king) is above law, that is, all persons, regardless of their status and position, are equally liable to penalty for contravention of law.

When compared with Constitution of the Soviet Union, we find that our Constitution does not provide some important rights e.g. the right to work, the right to rest and leisure, the right to material security and the right to education. However, some of them are covered by the Directive Principles of State Policy. In justification of their absence, it may be added that under the present conditions of the country those rights could not be secured to the citizens without the State assuming full ownership and control of all land, capital and means of production, which in its turn means the adoption of full fledged communism. In the original

Constitution there was also no provision regarding duties.

Fundamental duties. The 42nd amendment inserted the following duties in the Constitution, by adding Part IV A. Article 51A says : 'It shall be the duty of every citizen of India : (a) to abide by the Constitution and respect its ideals and institutions, the National Anthem ; (b) to cherish and follow the noble ideals which inspired our national struggle for freedom ; (c) to uphold and protect the sovereignty, unity and integrity of India ; (d) to defend the country and render national service when called upon to do so ; (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities ; and to renounce practices derogatory to the dignity of women ; (f) to value and preserve the rich heritage of our composite culture ; (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures ; (h) to develop the scientific temper, humanism and the spirit of inquiry and reform ; (i) to safeguard public property and to abjure violence ; and (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

It is good that duties of citizens have been incorporated in the Constitution ; and a ground of criticism has been removed. All these duties are such that they should be observed by all good citizens. But their performance has been left to the good sense of the citizens and the community. The Constitution has not prescribed any punishment for those citizens who fail to perform them. Either a parliamentary law should be enacted or some other mechanism should be devised so that the duties may be enforced.

III. Directive Principles of State Policy

The inclusion of these principles in the Constitution is a unique feature, borrowed from the Constitution of Ireland. We have already considered the various fundamental rights, which are justiciable, i. e. they can be enforced by the courts. Directive principles differ from fundamental rights in this important respect, because they are not enforceable ; nevertheless, they are fundamental in the governance of the country. The fact that they have been embodied in the Constitution gives to them a significance, almost a sanctity, and the various governments in their spheres are natu-

rally expected to apply them in practice. The principles are ideals towards the attainment of which the governments will endeavour. If they either do not show any initiative or make only half-hearted attempts towards the same, it will be the duty of the citizens to agitate and by constitutional means to compel the State to carry on the administration in terms of the directives. The fact that the Constitution provides for a democratic government gives sufficient opportunity for the people to be vigilant.

They are intended to be kept in mind both by the legislatures in enacting laws and by the executive authorities in executing the laws. They give an indication of the policy which the Union and the State Government ought to follow. The State exists to secure a good life to the citizens. A good life can only be secured if the State gives effect to those principles, which are elaborated in this part. It appears like a minifesto, an instrument of instructions, a code of moral precepts, which should guide the legislatures and also the executives. They are mostly in the nature of moral precepts and economic maxims, unexceptionable in content having no legal force. They may be used for political criticism. They confer no legal rights and create no legal remedies. In essence the statement of the principles touches all aspects of the citizen's life, namely, cultural, social, economic and political. One of the principles is concerned with a statement of the basic tenets of India's foreign policy. The Directive principles of State Policy are briefly summarised below :

1. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it can, a social order in which social, economic and political justice shall inform all the institutions of national life.

2. The State shall particularly direct : (a) that the citizens both men and women equally have the right to an adequate means of livelihood ; (b) that the ownership and control of the material resources of the community shall be so distributed as to lead to the common good ; (c) that operation of the economic system does not result in the concentration of wealth and means of production to the common detriment ; (d) that there is equal pay for equal work for both men and women ; (e) that the health and strength of workers and the tender age of children are not abused ; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity ; and that childhood and youth are protected against exploitation and against

moral and material abandonment (This was substituted by the 42th amendment in place of the original).

3. The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide for legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (This article 31A was inserted by the 42nd amendment).

4. The State shall organise village Panchayats and shall endow them with necessary powers and authority to enable them to function as units of self-government.

5. According to its capacity the State shall make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in the other cases of undeserved want.

6. The State shall make provision for just and humane conditions of work and maternity relief.

7. The State shall endeavour to secure by suitable legislation or economic organisation to all workers, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure, etc.

8. The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. The introduction of the Hindu Code Bill which had to be withdrawn was a step in this direction. The Special Marriage Act and other measures of social reform are aimed at achieving the same goal.

9. The State was to endeavour to provide, within a period of 10 years, for free and compulsory education for all children until they completed the age of 14 years.

10. The State is to promote with special care the educational and economic interests of scheduled castes, scheduled tribes and other weaker sections.

11. It is the duty of the State to raise the level of nutrition and the standard of living and to improve public health.

12. The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines, and shall take steps for improving the breeds, and prohibiting the slaughter of cows, other useful cattle.

13. It is the obligation of the State to protect monuments, places and objects of national importance.

14. The State shall take steps to separate the judiciary from the executive in the public services of the State.

15. Promotion of Peace and Security. The State shall endeavour to : (a) promote international peace and security ; (b) maintain just and honourable relations between nations ; (c) foster respect for international law and treaty obligations in the dealings of organized people with one another ; and (d) encourage settlement of international disputes by arbitration.

16. The following directive principles were also inserted by the 42nd amendment : (i) The state shall take steps, by suitable legislation or in any other manner to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry. (ii) The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. (Articles 43A and 48A)

The statement of directive principles does not create any special rights in the individual, which he may have enforced in a court of law. It only means that the State shall so conduct the administration as to create an institutional framework within which all the ideals laid down may be capable of being accomplished. The individual citizen can help in the building up of such a framework either by working for it in the government or by enlightened criticism, or by agitating public opinion, if the State shows a tendency to slacken in its efforts to secure the goal laid down in the directive principles. That is at once a challenge and an opportunity to him.

In this context the following observation of Dr. Ambedkar is worthy of being noted : "The Directive Principles are nothing but obligations imposed by the Constitution imposed upon the various governments in this country that they shall do certain things, although it says that if they fail to do them, no one will have the right to call for specific performance. But the fact that they are obligations of the Government, I think, stands unimpeached." Their importance is similar to that of the conventions. 'The importance of conventions under the English Constitution already shows that enforceability in a court of law is not absolutely necessary for giving practical efficacy to a principle and consequently the mere fact that a principle is not enforceable in a court of law does not deprive it of all value as constitutional principle'.¹

¹K C. Markandan, *Directive Principles in the Indian Constitution*, pp. 144-47.

IV. Critical Observations

These are being discussed under the following headings :

Fundamental Rights and Directive Principles of State Policy.

‘Both the Rights and the Principles have been the source and inspiration of reform legislation, for under their aegis the Indian Parliament has been active in the matter of social legislation, whether it be called by the Hindu Code or by another name.’ The Fundamental Rights of other constitutions may have served as well as—or even better than—those of the Indian Constitution in protecting the existing rights and liberties of the peoples concerned. It is very doubtful, however, if in any other constitution the expression of positive or negative rights has provided so much impetus towards changing and rebuilding society for the common good.’¹

A former Chief Justice of India Observes : ‘It was only after the voice of communism was heard in the world and the philosophy of Marx was accepted by U.S.S.R. that democracies realised that their passive or negative role had to be changed if they were successfully to fight the challenge of communism....The creation of a new social order, which has been placed by the Constitution as an ideal before the Indian democracy, thus, is a continuing and unending process and, in this process, law as an instrument of socio-economic change, has to make dynamic provisions from time to time so as to meet the challenge of the times. Indian democracy believes that the socio-economic revolution, to the achievement of which it is committed, can be achieved in a non-violent and democratic manner. This proposition postulates legislative measures from time to time, the executive would scrupulously implement such legislative measures, and the judiciary will fearlessly and vigilantly examine the validity of legislative and executive action in the light of the relevant constitutional provisions.’²

N. M. Tripathi's View. ‘We are confident that as time passes our courts and our lawyers will gradually begin to appreciate the value of the directive principles and correspondingly the principles will figure more and more in forensic argument and juristic discussion, and they will exert a greater and more adequate influence on the jurisprudence of this country. It is submitted with utmost respect that the highest court in this country has so far failed to give due

¹K.M. Panikkar, *Hindu Society*, p. 52.

²P.B. Gajendragadkar, *Indian Democracy: Its Major Imperatives*, pp. 20-21.

importance to the directive principles partly on account of its exaggerated concern for the rights of the individual and partly on account of the subtly mistaken notion that a law which is not justiciable is inferior to, and, must run subsidiary to, and, is less binding than a law which is justiciable. Both these are outworn ideas and have long been abandoned by other progressive juristic systems like that of the United States of America or Britain. They will have to be abandoned in this country too.¹

Position after Amendments. How does the citizen now stand vis-a-vis the Fundamental Rights? Almost all the Constitutional Amendment Bills following the Golak Nath Case have been undertaken with the single aim and object of expediting socio-economic change. In fact far-reaching measures like nationalisation of banks and revocation of privy purses have followed in quick succession, over the past few years. Even without the changes made by the 44th. amendment, the position about the right to property was that any form of property could be acquired by government, and that neither the property taken over nor the quantum of compensation can be questioned in a Court of Law.

‘Indeed, such erosion already has taken place, particularly in respect of minority rights, not so much at the Centre as in various States where political leadership may not always be of the most enlightened character. To take an example, article 25 guarantees the right of minorities to practise, profess and propagate their religion. Despite this clear sanction the Government of Orissa proceeded to pass the “Freedom of Religions” Bill, which was in fact the negation of the freedom enshrined in Part III of the Constitution and was later struck down by the Courts. This was similar to the discriminatory legislation passed by the State Government of Gujarat. Freedom “to form associations and unions”; “to move freely throughout the territory of India”; “to practise any trade occupation or business” exists subject to in-built limitations and safeguards, and rightly so. It is necessary that those who enjoy these freedoms should do so, with proper freedoms as the safety valve of a pluralistic society, imposing restraints only when they are unavoidable. This is particularly true about freedom of speech and expression, which includes freedom of the press—a hallmark and a touchstone of an “open” society. Currently, the freedom of the

¹N.M. Tripathi, *Spotlight on Indian Constitution*, p. 321.

Press has given way to the special laws necessitated by Emergency conditions.¹

Preventive Detention. 'It need hardly be said that in itself preventive detention is a detestable evil, the very negation of liberty and self-government. But democracy needs protection at both ends. It needs to be protected against uncontrolled and excessive authority in the hands of the governors. Equally does it need protection against internal forces seeking to subvert the democratic constitution, while sheltering their sinister organisation and pernicious activities under that very constitution. The possibility of such exploitation of the provisions of the Constitution against itself engenders the inescapable necessity of lodging in Parliament and in the state legislatures adequate power to deal with subversion well in advance; it makes the power of preventive detention a necessity.' However, the Preventive Detention Act of 1950 had certain acute features, some of which have been alleviated by the successive chain of amending acts, particularly by the Acts IV of 1951 and LXI of 1952. There still seems to be too much secrecy in the operation of the Preventive Detentions Acts. The proceedings of the Advisory Boards and their reports are kept confidential. The possibility of extending the help of the lawyer also needs consideration. Finally, the most important question is : must we have preventive detention Acts as a regular feature of our legal system ? Must we depend, in other words, even in normal times, for protecting the security of the state or public order or the supply of essential commodities of the community on laws of preventive detention, or, shall we perfect our ordinary criminal law machinery ?²

Liberty and National Emergency. A Presidential Order issued on 8 January 1976 said : "In exercise of the powers conferred by clause (1) of article 359 of the Constitution, the President hereby declares that the right of any person to move any court for the enforcement of the rights conferred by article 19 of the Constitution and all proceedings pending in any court for the enforcement of the above-mentioned rights shall remain suspended for the period during which the proclamations of emergency made under clause (1) of article 359 of the Constitution on the 3rd December, 1971

¹L. Prabhu, 'Fundamental Rights and Duties—Their Position in India before and after the Constitutional Amendments', J.C.P.S. Jan. March 1977, pp. 77-80.

²N.M. Tripathi, *op. cit.*, pp-207-11.

and on the 25th June 1975, are both in force.' The order extended to the whole of India.

In a judgment, Chief Justice, A.N. Ray of the Supreme Court observed : "The suspension of right to enforce fundamental right has the effect that the emergency provisions in part XVIII are by themselves the rule of law during times of emergency. There cannot be any pre-Constitution or post-Constitution Rule of Law which can run counter to the rule of law embodied in the Constitution, nor can there be any invocation to any rule of law to nullify the Constitution provisions during the time of emergency. Justice H. R. Khanna disagreed with the majority opinion and gave a dissenting judgment. He opined that article 21 cannot be considered to be the sole repository of the right to life and personal liberty. According to him, the right to life and personal liberty is the most precious right to human beings in civilized societies governed by the rule of law, and that the Constitution and laws of India do not permit life and liberty to be at the mercy of absolute power of the executive, a power against which there can be no redress in courts of law, even if it chooses to act contrary to law or in an arbitrary and capricious manner. According to him, article 226 under which the High Courts could issue a writ of habeas corpus is an integral part of the Constitution. No power has been conferred upon any authority in the Constitution for suspending the power of the High Courts to issue writs in the nature of habeas corpus during the period of emergency. Such a result can not be brought about by putting some particular construction on the Presidential Order in question.

The Bombay High Court allowed certain writ petition and issued directions to the detaining authorities for the grant of such other facilities as demanded, and struck down some clauses of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 and Maharashtra Conditions of Detentions Order 1974. The Karnataka High Court also allowed certain writ petitions and issued directions to the detaining authorities to give certain facilities to the detenues. Appeals to the Supreme Court were directed against the judgments and orders passed by the Bombay and Karnataka High Courts.

The Supreme Court relying on its previous decision in *A.K. Gopalan v. State of Madras* (1950), *Kharak Singh v. State of U. P.* (1963), *A.D.M. Jabalpur v. Shivkant Shukla* (1976), held that all aspects of rights that constitute personal liberty under articles 19, 21 and 22 are suspended during the operation of the proclamation

of emergency ; conservation of Foreign Exchange and Prevention of Smuggling Activities Act ; and the orders made or passed thereunder are not open to challenge on the ground of their being inconsistent with or repugnant to articles 14, 19, 21 and 22 of the Constitution in view of the aforesaid Presidential Orders.¹

Freedom of Religion and Secularism. Article 25 protects religious freedom as far as individuals are concerned. The right is not only given to the citizens of India but to all persons, and the right is to profess, practise and propagate religion. When we turn to article 26, it does not deal with the rights of an individual or of a citizen. It deals with the right of a religious denomination or a section of a religious denomination. The religious beliefs of individuals are not determined within context of their identity with a religious community. The Supreme Court extended the protections of articles 25 and 26 only to religious communities or denominations. These protections cover only what is essential and integral to a religion, and the determination of what is essential and integral is finally determined by the Court, often with the result that the tradition, practice, or literary basis of a religion is distorted or changed by the Court's fiat. The protections of article 25 and 26 are not extended to any individual outside of that person's identification with a religious community which the court recognizes.

Our constitution does not proclaim any state religion and it makes no distinction between the different types of citizens. In its ruling the Supreme Court said : "Under article 26 (6), therefore, a religious denomination or organization enjoys complete autonomy in the matter of deciding as to what rites and ceremonies are essential according to the tenets of the religion they hold and no outside authority has any jurisdiction to interfere with their decision in such matters". On the Kerala Education Bill of 1951 in its advisory opinion, the Supreme Court considering the scope of this specific fundamental right given to linguistic minorities held that with the bare exception of a few Anglo-Indian institutions as provided for under article 337, privately administered educational bodies have no constitutional right to have any financial aid from the state. But in practice, the condition is so fluid or critical that no institution could run without such aid (for instance, every Christian mission

¹K.D. Gaur, *'Personal Liberty and National Emergency: A Critical Appraisal,'* J.C.P.S., July-Sep. 1979, pp. 278-80.

manned school in Kerala solely depended upon government aids).¹

'A new gloss on secularism is emerging in the wake of a memorandum that 44 MPs sent some time ago to the Prime Minister, followed by a statement that seven of them published in the press. In both the documents, they expressed themselves feelingly on the subject of what Muslims are suffering through communal violence and discrimination against them by the police. If what they have alleged is true, the language they employed was not too strong. However, without any effort to controvert the allegations, several critics have questioned the propriety of Muslim MPs, elected on the support largely of non-Muslim voters, becoming the spokesmen of aggrieved Muslims. They see in this an onslaught on secularism and an encouragement of divisive trends in the country. Not a word on the truth or otherwise of such a grave charge as that 'communal violence is turning more and more into police action against the Muslim minority.'²

Fundamental Duties. These can be broadly grouped under the following three categories :

Duties as moral precepts. This category may include those precepts which enjoin citizens to so conduct themselves individually and collectively as (i) to cherish the noble ideals of the freedom struggle; (ii) preserve the rich heritage of nation's composite culture; (iii) to develop scientific temper, humanism and spirit of inquiry and reform ; and (iv) to strive for excellence in all individual and collective activity.

Duties political in nature. Some duties may be regarded as political in nature and this category may include duties : (i) to respect the Constitution, the national flag and the national anthem ; (ii) to uphold and protect the sovereignty, unity and integrity of India ; and (iii) to defend the country and to render national service. These duties can be enforced by appropriate legislation and consequent executive action.

Duties specifically enforceable. Some duties are by nature specifically enforceable and legislation will have to be passed to have them enforced. This category may include (in addition to those listed above) ; (i) to protect the natural environment ; and (ii) to safeguard public property and to abjure violence. The

¹Akhilleshwar Singh 'The Concept of Secularism in Indian Constitution', J C P.S. Jan-March, 1978, pp. 18-29.

²V.V. John, 'Glosses on Secularism', Indian Express, 7 Feb. 1983. For Muslim MPs' Memorandum, refer to chap. 23.

Parliament is empowered to impose appropriate penalty or punishment for any non-compliance with refusal to observe any of these fundamental duties.¹

¹H.C. Dholakia, '*Forty-Second Minus Forty-Fourth, Some Plus Points*', J.C.P.S., Oct.-Dec. 1976, pp. 400-01.

CHAPTER 6

Union Executive

I. The President : Election, Conditions of Office, Etc.

ELECTION

Qualifications. No person is eligible for election unless he :
(a) is a citizen of India ; (b) has completed the age of 35 years ;
(c) is qualified for election as a member of Lok Sabha ; and
(d) does not hold any office of profit under the Government.

Elected by an Electoral College. The President is elected by an electoral college consisting of (a) elected members of both Houses of Parliament and (b) elected members of State Legislative Assemblies. For such election there is to be, uniformity in the scale of representation of the different States, which is to be achieved by giving each elected member of a State Legislative Assembly as many votes as there are multiples of one thousand in the quotient obtained by dividing the population (according to published figures of the preceding census) of the State by the total number of the elected members of the Assembly. Secondly, there is to be parity between the States as a whole and the Union. Thus the election of the President is determined not by simple counting but by weighing of votes, according to a complicated formula. The number of votes which each elected member of the Legislative Assembly of a State has = $\frac{\text{Population of the State}}{\text{Total number of elected members of the State Legislative Assembly} \div 1000}$. The number of votes of an elected member of the Parliament is : $\frac{\text{The total number of votes of the elected members of the State Legislative Assemblies}}{\text{Total number of elected members of both Houses of Parliament}}$.

‘The effect of the above provisions is to make the President a representative of the States and the Union equally. This is, indeed, in complete harmony with the general scheme of the Indian Consti-

tution, which is neither purely federal nor purely unitary in character....It is evident that in so far as the States are concerned, it does secure a rough uniformity in the scale of States' representation, for each of them would have more or less a total vote equal to the thousandth of its population. But it is true that the smaller States would get a slight weightage as against the bigger States....But this may not be so about parity between the States and the Union.¹

The election of the President, according to clause (3) of article 55 is held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election is by secret ballot. The main objective for the adoption of proportional representation was to give the minorities a voice in the election of the President. But no system of proportional representation can possibly be worked on the basis of a single-member constituency. This was, perhaps, provided because it was felt that a quota could be worked out for a single member constituency also on the basis of the formula : the total number of votes cast should be divided by two and the quotient obtained be increased by one. The figure so obtained would be the quota. But this is another way of saying that the election would be by an absolute majority of valid votes polled.

Rules made under the Presidential and Vice-Presidential Elections Act, 1952 prescribed that the Election Commission shall (a) fix a place of polling in Parliament House in New Delhi and also in the premises in each State in which Legislative Assembly, if any, of that State meets for the transaction of business ; (b) specify with reference to each place of polling the group of electors who will be entitled to vote and the hours during which the poll will be taken at such place ; and (c) give due publicity to the place so fixed and the group of electors and the hours so specified.

Some Examples. The sudden death of President Zakir Hussain on 3 May, 1969 necessitated the first mid-term Presidential election. At the time of polling (on 16 August) there were as many as fifteen candidates in the field, but among them three were the main contenders. The electoral college consisted of 748 elected members of the Parliament and 3,389 elected members of the State

¹Bal Krishna, '*Election of the President of India*', J.C.P.S, July-Sep, 1973, pp 38-9.

Legislative Assemblies. Five of the contestants received no votes. In the first counting V. V. Giri secured the highest number of votes, but he failed to secure an absolute majority of the total number of valid votes polled. As a result of that, second counting of the second preferential votes became necessary. That reduced the margin of Giri's lead from 10.52% to 1.83%, which was the narrowest so far. However, he was elected on the basis of second preference votes for the first time. The following table shows the number of votes polled by the first four candidates :

Candidates	First Preference			Second Preference		
	Votes Polled	Union	State	Votes Polled	Union	State
1. V. V. Giri	401,515	359	1,551	18,562	366	1,648
2. Sanjiva Reddy	313,548	268	1,235	91,879	360	1,534
3. C. D. Deshmukh	112,769	101	408
4. C. D. Senani	5,814	3	30

Fakhruddin Ali Ahmed, Congress nominee for the office of President of India was declared elected on 23 August 1974 defeating the Opposition candidate, Tridib Kumar Chaudhari, by a margin of 576,391 votes. In a straight contest, Ahmed secured 80.2 per cent of the total 954,783 valid votes polled as against 19.8 per cent polled by Chaudhari of the Revolutionary Socialist Party in Parliament, out of a total 4,93,809 valid votes polled.

Election for the 7th President was held in July 1982. The ruling party nominated Gyani Zail Singh (the former Home Minister) for the office and the opposition parties adopted Shri H.R. Khanna (retired Judge of the Supreme Court) as their candidate. An interesting issue raised during the period of election was an appeal by the opposition candidate and his supporters in the name of "conscience vote". Smt. Gandhi criticised the opposition for such an appeal. However, Janata Party leader in Parliament, Madhu Dandavate, said it was "ironical" that Smt. Gandhi, who was the architect of the conscience vote during the presidential election in 1969, should characterise it as an insult to democracy. Former Chief Justice, M.H. Baig, criticised H.R. Khanna on the ground that he had inhibitions about the basic structure of the Constitution, beyond the amending power of Parliament, and was also wedded to romantic ideas of personal liberty. In his view these two

factors could come in the way of H.R. Khanna discharging his functions as president at the present juncture when the country faced grave external and internal problems.¹

The following is the table giving the number of votes in each state : (Figures, in that order, indicate the number of elected assembly seats, value of each vote, and total votes for the state).²

Andhra Pradesh	294	148	43,512
Assam	126	116	14,616
Bihar	324	174	56,376
Gujarat	182	147	26,754
Haryana	90	11	10,080
Himachal Pradesh	68	51	3,468
Karnataka	224	131	29,344
Kerala	140	152	21,280
Madhya Pradesh	320	130	41,600
Maharashtra	283	175	50,400
Manipur	60	18	1,080
Meghalaya	60	17	1,020
Nagaland	60	9	540
Orissa	147	149	21,903
Punjab	117	116	13,572
Rajasthan	200	129	25,800
Sikkim	32	7	224
Tamil Nadu	234	176	41,184
Tripura	60	26	1,560
Uttar Pradesh	425	208	88,400
West Bengal	294	151	44,394
Total Value			<u>543,415</u>
(a) Value of votes per member of Parliament		702	
(b) Total value of votes for members of Parliament			543,348
Grand Total			<u>1,086,763</u>

¹Times of India, 1 July 1982.

²Times of India, 12 July 1982.

Statewise Votes for the candidates¹

States	Votes for Zail Singh	Votes for H.R. Khanna
Andhra Pradesh	255	31
Assam	—	—
Bihar	210	108
Gujarat	149	30
Haryana	54	35
Himachal Pradesh	35	32
Jammu & Kashmir	57	11
Karnataka	189	34
Kerala	76	61
Madhya Pradesh	251	66
Maharashtra	239	48
Manipur	50	10
Meghalaya	37	18
Nagaland	54	1
Orissa	130	15
Punjab	99	12
Rajasthan	154	40
Sikkim	24	7
Tamil Nadu	195	35
Tripura	3	51
Uttar Pradesh	330	88
West Bengal	53	233
Parliament	528	210
Total	3,172	1,176

Gyani Zail Singh was declared elected President of India on 16 July, 1982. He secured 72.7 per cent of the votes as against 27.3 per cent by Shri H.R. Khanna. Shri Zail Singh won 754,113 votes as against 282,685 polled by his opponent. This was second highest majority in the Presidential election ever, the highest recorded so far being 546,726 for Dr. S. Radhakrishnan in 1962. Of the 720 elected members of Parliament who exercised their franchise, the victorious candidate secured 72.7 per cent of the votes as against 27.3 per cent polled by his opponent.

A significant development in connection with the presidential

¹Conparlist, August 1982.

election took place in 1974. Sometime before the Legislative Assembly of Gujarat had been dissolved. A presidential reference was made to the Supreme Court on the constitutionality of holding the election in such a situation. The Supreme Court held that the election of the President before the expiration of the 5-year term was mandatory and added that a President, whose term had expired would continue to hold office only under article 56 (1) (c) until "his successor enters upon his office". The Court also added that article 56 (1) (c) was complementary to article 62 (1) and held that the word "otherwise" in article (62) (2) might apply in cases where, for example, a President (already in office) became disqualified or where his election was declared void and so he could not hold office. In such cases an election was to be held not later than six months from the date of the occurrence of the vacancy. The Court said that only such persons who were elected members of both Houses of Parliament and the Legislative Assemblies of the States on the date of the election to fill the vacancy caused by the expiration of the term of office of the President would be entitled to cast their votes at the election. According to the opinion of the Court, the dissolution of the Gujarat Assembly on 15 March did not preclude the holding of the forthcoming presidential election before the expiration of the term of the President on 24 August and this election was completed within this date.

The electorate and the method of election of the President of India are unique and have no parallel in the modern world. So far the election of the head of the State has been by the people or by a special electoral body known as the electoral college or by the two houses of the national legislature sitting jointly as a national assembly for the purpose.

Election Dispute. An election dispute arose in 1969, when five election petitions were filed in the Supreme Court challenging the election of V.V. Giri. Two of them were filed by candidates, whose nomination papers had been rejected on different grounds by the Returning Officer. The other petitioners were electors—either members of Parliament or of State Legislative Assemblies. A special bench of five judges heard the petitions for sixty days. One hundred and sixteen witnesses were examined by the Court. V.V. Giri as President, appeared in person before the Court. The grounds of challenge formulated by the Court included : (i) wrongful rejection of certain nomination papers; (ii) Part III and Section 21 of the Constitution; (iii) elected members of the Legislative Assemblies of

the Union Territories were entitled to vote at the election; etc. In a unanimous judgment, the Supreme Court on 11 May 1970 upheld the election of V.V. Giri and dismissed the petitions challenging the election.

CONDITIONS OF OFFICE

Article 59 lays down : (1) The President cannot be a member of Parliament or of any State Legislature. If a member is elected President, he is deemed to have vacated his seat in the Legislature. (2) The President cannot hold any other office of profit. (3) The President is entitled without payment of rent to the use of his official residences; and is also entitled to such emoluments, allowances and privileges as may be determined by parliamentary law, until such provision was made to such emoluments etc. as are specified in the Second Schedule. (4) The emoluments and allowances of the President cannot be diminished during the term of office.

Term and Vacation of Office. The President holds office for a period of 5 years from the date he takes the oath of his office in the presence of the Chief Justice of India, whereby he swears in the name of God or solemnly affirms that he will faithfully discharge the functions of the President of India and will to the best of his ability preserve, protect and defend the Constitution and the law and that he will devote himself to the service and well-being of the people of India. There is no constitutional bar against his re-election. The President may resign before the expiration of his term of office for any reason, viz. (i) continued ill-health; (ii) in order to avoid removal by impeachment, or (iii) issue in case of a major difference with the Council of Ministers or the majority party on a vital issue.

Succession. The provisions of the Constitution were not clear in regard to this, until a problem arose in 1969 after the death of Zakir Hussain in the middle of his term. The Constitution simply laid down that in the event of any vacancy, the Vice-President shall succeed and continue in office till the new President is elected. It was vague on the point of succession in case the office of the Vice-President acting as the President fell vacant on account of death, resignation or removal. So when Vice-President V.V. Giri desired to contest the Presidential election in July 1969, after quitting his office, he sought the advice of the Attorney-General. Faced with such a situation, the Parliament enacted the President (Discharge

of Functions) Act, 1969. It provides for succession in this way: the office of the President shall be assumed by the Chief Justice followed by other Judges of the Supreme Court in a row in case the Vice-President's Office is vacant.

Removal By Impeachment. When a President is to be impeached for violation of the Constitution, the charge should be preferred by any House of Parliament. But such a charge cannot be preferred unless (a) the proposal is contained in a resolution, which has been moved after at least 14 days notice in writing signed by not less than 1/4th of the total number of members of the House has been given; and (b) such resolution has been passed by a majority of not less than 2/3rds of the total membership of the House. When a charge has been so preferred by one House, the other House shall investigate the charge or cause the charge to be investigated and the President has the right to appear and to be represented at such investigation. If as a result of the investigation a resolution is passed by a majority of not less than 2/3rds of the total membership of the investigating House, declaring that the charge against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is passed. Under the Indian Constitution, the President can be impeached only for "violation of the Constitution", and for nothing else. Since the President is liable to impeachment for violation of the Constitution, it is no question whether the alleged violation is committed willfully, wantonly or in sheer ignorance of the Constitution. The question whether any alleged act on the part of the President does or does not amount to violation of the Constitution is a pure and substantial question of law regarding interpretation of the Constitution, and the determination of that question has nothing to do with any alleged irregularity of procedure; hence the President can take advantage of the provisions of article 143 of the Constitution, empowering him to refer any question of law for consideration and opinion of the Supreme Court.¹

Immunities of the President. The President is not answerable to any court for the exercise of the powers and performance of the function of his office. During his term of office, no criminal proceedings can be instituted against him in any court; neither can he be

¹Madhukar Shyaman Chaturvedi, 'The Impeachment Under Indian Constitution,' I. C. P. S., Apl.-June 1980, pp. 181-94.

arrested nor imprisoned. Civil proceedings against him for acts done in personal capacity, whether before or after the assumption of office, cannot be instituted unless a two-months notice is given. Thus he owes no political responsibility to any constituted authority and can not be removed from office except by impeachment for the violation of the Constitution.

President's Emoluments. Parliament may determine his allowances, emoluments and privileges, and until it does so they are as specified in the Second Schedule. The President is paid Rs. 10,000/- per month and allowances, which were paid to the Governor-General of the Dominion before the commencement of the Constitution. His emoluments and privileges cannot be diminished during his term of office. But the President himself, if he so desires, can surrender a part of his salary, in accordance with the voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950. Thus the surrendered amount is not included in total annual income for purpose of income taxation. For his official residence he is entitled to the use of the Rashtrapati Bhavan in New Delhi and the President's Nilayamat Bolaram near Hyderabad. After his retirement from office, he is paid a pension under the President's Pension Act, 1951-52. His pension consists of Rs. 15,000/- per annum and he can draw for his secretarial expenses upto Rs. 12,000/- per annum. Provision is also made for free medical attendance and treatment.

The Vice-President. The election of the Vice-President, like that of the President, is also indirect and in accordance with the system of proportional representation by means of the single transferable vote. He is elected by an electoral college consisting of the members of both the Houses of Parliament. The qualifications for election as Vice-President are the same as those prescribed for the President, with the difference that a person, in order to be a Vice-President, must be qualified for election as a member of the Rajya Sabha. This was found necessary because he has to act as Chairman of that House. Under the 11th. amendment of the Constitution (1961), there is no need for a joint sitting of both the Houses of Parliament for the purpose of Vice-Presidential election. Vice President's term of office is also 5 years and can be terminated either by resignation or removal. He may be removed by a resolution of the Rajya Sabha passed by a majority of its members and agreed upon by the Lok Sabha. There is no bar to a Vice-President seeking re-election.

As long as the President is in office, the Vice-President has only one function, that of acting as Chairman of the Rajya Sabha. But, if the office of the President is vacated on account of any reason, the Vice-President acts as President until a new President is elected. He also discharges the functions of the President during his temporary absence due to illness or any other cause. When the Vice-President acts as the President, he ceases to perform the duties of the Chairman of the Rajya Sabha, which has to elect another Chairman. The office of the Vice-President in India is similar to that of his American counterpart so far as he presides over the Upper House. But whereas in U.S.A. the Vice-President becomes President for rest of the term, whenever President's Office falls vacant, in India the Vice-President acts as President only until a new President is elected.

II. The President : Powers and Functions

Article 53 (1) of the Constitution lays down clearly that the executive power of the Union is vested in the President. He is endowed with vast executive powers covering the administration, the military, diplomacy as well as the judiciary. While the President has no administrative functions to discharge, nor any power of control and supervision over the departments of the government, they are all carried on in his name. The President also has several powers in the legislative field. We propose to discuss briefly the powers and functions of the President as follows :

Executive and Administrative. In the first place, he appoints the Prime Minister and other ministers on the advice of the Prime Minister. In the second place, he appoints state governors, lieut.-governors and administrators of Union Territories. He also appoints several commissions, viz., the Public Service Commission, Language Commission, Finance Commission, Backward Classes Commission; the Attorney-General, the Comptroller and Auditor-General; Judges of the Supreme and High Courts, Special Officer for Scheduled Castes and Tribes, etc. Most of the officials appointed by him hold their office during his pleasure i. e. they can be removed by him; but in regard to the removal of a judge of the Supreme Courts etc. there is a special procedure.

In the third place, the Supreme Command of the Defence Forces is vested in the President, but the exercise of this power is to be regulated by law and the Parliament has exclusive powers for legislation relating to the Defence Forces, war and peace. The powers of the President of U.S.A. are greater in this respect, because as

Supreme Commander he can assume emergency powers. 'This (military) power of the President cannot be treated as illusory or its investment a matter of form. In that capacity his actions are expressly stated to be bound only by the law made by Parliament'.¹

In the fourth place, the President as head of the Government represents the country in international affairs. He appoints ambassadors and other diplomatic representatives to foreign countries and also receives similar representatives appointed by foreign States to India. The initiative in regard to the negotiation of treaties and agreements with other countries lies with the ministers and only technically with the President though such agreements must be submitted to Parliament for its ratification.

In the fifth place, he has power of making rules or regulations governing matters like joint sitting of two Houses of Parliament, appointment of officers and servants of the Supreme Court, administrative powers of Comptroller and Auditor General, fixing the number of members of Union Public Service Commission. The President's approval is necessary for certain administrative acts or decisions of other authorities, e. g. to rules made by the Supreme Court governing its procedure, the Union Public Service Commission serving the needs of any State, etc. Lastly, the President has important powers of direction, control and co-ordination in relation to State Governments.

In the sixth place, the President can issue various kinds of directions and instructions. He can issue directions to the State Governments in accordance with which the States concerned should carry on their administration. By virtue of such directions, he exercises superintendence and control over the administration of the States. He can also issue instructions, which State Governments must follow to ensure due compliance with the Union laws and unimpeded operation of the Union administration. During the period of emergency his power of issuing directions is very much enlarged. He also has the power of issuing directions in other matters, e. g. adoption and use of Hindi or any regional language.²

In the end we may also consider here the administrative powers of the President in relation to the Union Legislature. Briefly stated, he summons and prorogues the sessions of the Houses of the Parliament; and he is empowered to dissolve the Lok Sabha

¹K. M. Munshi, *The President under the Indian Constitution*, p. 42.

²Articles 344 and 345.

at any time. In the beginning of each session of Parliament he addresses both the Chambers at a joint sitting ; and he has power to address either House or both of them assembled together, at any time, besides sending messages. He can call joint sittings of the two Houses to resolve their differences over a bill.

Legislative. The Constitution expressly lays down that the Union Legislature consists of the President and two Houses of Parliament, though he is not a member of any House. Like the King-in-Parliament in England, the President and Parliament only in combination can enact laws. As regards actual Legislation, following kinds of bills cannot be introduced in Parliament without his recommendation or sanction : (i) a Bill relating to the redistribution or alteration of State boundaries, (ii) Money Bills, Bills involving expenditure ; Bills affecting taxation in which the States are interested. He causes to be laid before Parliament the Annual Financial Statement, supplementary statement, annual reports of the Union Public Service Commission, the Comptroller and Auditor-General, the Special Officer for Scheduled Castes and Tribes, Backward Classes Commission, and recommendations of the Finance Commission, etc.

Secondly, a Bill passed by the Parliament must receive his assent in order to become a law. He can withhold his assent (except in the case of Money Bills) to a Bill and may also return a Bill to the Parliament for reconsideration, with his own recommendation ; but if such a Bill is passed by Parliament a second time with or without amendment his assent must be given. The President is also authorised to promulgate ordinances during the period when Parliament is not in session.

Thirdly, the Parliament has certain important powers and functions in regard to legislation in the States. His sanction or authorization is necessary for introduction of certain types of bills in State Legislature e. g. a bill to impose restrictions on freedom of trade, commerce, or intercourse within the State. Again, State laws dealing with certain matters requiring his assent have to be reserved by the Governors e. g. all State laws dealing with subjects included in the Concurrent List if in conflict with any Union law, laws providing for compulsory acquisition of property by the State or imposing certain specified taxes, etc.

Fourthly, the President appoints an acting Chairman of the Rajya Sabha in case the office is vacant, or during the period when the Vice-President officiates as the President or when the office of

the Deputy-Chairman is also vacant and none of the six members of the panel of presiding officers is available. Similarly, in case the offices of the Speakers and the Deputy-Speaker of the Lok Sabha are vacant and none of the six members of the panel so formed for the purpose is available, the President appoints the Speaker *pro tem* of the Lok Sabha from among its members. Such an occasion comes whenever the newly elected Lok Sabha meets for the first time. The powers of the President in relation to Parliament may be made more explicit by the following elaboration :

In Composition of Parliament. He has a share in the composition of both Houses of Parliament. He can nominate two members belonging to the Anglo-Indian community to the Lok Sabha, if in his opinion that community is not adequately represented. He has also the power to nominate twelve members to the Rajya Sabha to represent literature, science, art and social service. The Constitution does not prescribe any qualifications for these members ; in the opinion of the Patna High Court it is not correct to hold that all branches of knowledge specified either in article 80 (3) or article 171 (5) must be represented by nomination. The President also decides on questions as to disqualifications of members. Before the 42nd amendment, the Election Commission used to advise him on such cases. But now the President only consults the Election Commission, whose advice is no longer binding on him. On the other hand, he will have to act according to the advice of the Council of Ministers, whose advice has now been made binding on him.

Summoning, Prorogation and Adjournment of Parliament. The President summons the Parliament to transact government business, which only the Government is supposed to decide. Even before the 42nd amendment, the constitutional practice was that normally he used to summon the Parliament on the advice of the Council of Ministers. A situation could arise where the Prime Minister appeared to have lost majority support in the Parliament and could be reluctant to summon the same. In such a situation the alternative open to the President was first to persuade the Prime Minister to summon and face the Parliament ; and in the event of the Prime Minister not agreeing to the advice, it was open to the President to summon the Parliament on his own accord for the purpose of obtaining its verdict on the question. Under the 42nd amendment, the President is obliged to summon the Parliament on the advice of the Council of Ministers and is left with no discretion of his own.

Besides summoning, the President also has the power to

prorogue the Parliament. The termination of a session of the House of Parliament by an order made by the President under Clause (2) of article 85 is called 'prorogation'. The President's order brings to an end a session of the House but not its existence. In Madhya Pradesh in 1967, following the defection of more than 35 Congress members to the opposition, the Governor prorogued abruptly the Legislative Assembly at the behest of the Chief Minister in order to save the ministry from being thrown out of office. Similarly in Uttar Pradesh, the Governor prorogued the Assembly in 1969 on the advice of the Chief Minister when a lot of business and a no-confidence motion against the Speaker and Deputy-Speaker were pending before the Assembly. 'Having examined the circumstances and the purpose for which this power of prorogation has been used in the cases cited above by the State Governor on the advice of the Council of Ministers it is difficult to maintain that such advice should always be binding on the President or the Governor as the case may be if the Constitution is to be saved from being subverted'.¹

Dissolution of Lok Sabha. H. J. Laski argues that the King has no discretion whatever in this matter, because the independent exercise of such power would bring him into the arena of party conflict and he would, therefore, cease to be a neutral head of the State. The power of dissolving the Lok Sabha is vested in the President. The President V. V. Giri dissolved the Lok Sabha on 27 December, 1970—one year and seventynine days before its normal term and ordered a mid-term poll as soon as possible, on the recommendation of the Prime Minister, Smt. Indira Gandhi. Some of the political parties challenged the Prime Minister's right to advise dissolution as head of a minority Government and since it was the first act of a minority Government and since it was the first act of dissolution, some odd suggestions were made. Jana Sangh President, A.B. Vajpayee suggested to the President that he should tell the Prime Minister that Lok Sabha "should pass a resolution recommending dissolution of it." One other suggestion was that the President should act independently and a national caretaker Government be formed. By the 42nd amendment the advice of the Council of Ministers has been made binding on the President; so the position of the President has ceased to be that of an impartial umpire in the constitutional process of dissolution.

¹R. N. Misra, *The President and the Parliament*, Chaps. II and III.

The constitution is silent on the continuance of the Council of Ministers in office after the dissolution of the Lok Sabha.

After the exit of Janata Government in mid-1979, Charan Singh was asked to form a new Government. Shortly afterwards he tendered the resignation of his Government when he found that he could not face the Lok Sabha. Immediately afterwards the Lok Sabha was dissolved and Charan Singh was asked to carry on the "caretaker government". There were two distinct features in that case. First, the Prime Minister and his council of ministers had tendered their resignation before the Lok Sabha was dissolved and these resignations had been duly accepted. Secondly, the interim period from the date of dissolution and holding of elections sometime in December 1979 came to about four months. During this long period a prime minister and council of ministers whose resignations had already been accepted had been asked to take care of the government.

Power to Address Parliament. The Presidential Address like the Speech from the Throne in England is prepared by the Cabinet. A situation can be visualised when on the advice of the Council of Ministers, the President may be led to violate the Constitution, and he may be impeached on that ground in case another party comes into power. 'Therefore, if at any time the Council of Ministers prepares an address for the President, which is constitutionally improper, because it involves the violation of the Constitution, the President instead of accepting the advice of the Council of Ministers should consult the Supreme Court under article 143 of the Constitution. If the advice of the Supreme Court is that the address involves the violation of the Constitution, the President should, in the first instance, ask the ministry to delete the objectionable part. If the ministry still insists on retaining the objectionable part, the president would have perhaps no option but to omit the objectionable part while reading it.'¹ Besides the address at the commencement of the first session after each general election to the Lok Sabha and at the commencement of the first session each year, the president may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

Sending Messages to Parliament. In accordance with article 86 (2) the President may send messages to either House of Parlia-

¹R. N. Misra, op. cit, p. 46.

ment, whether with respect to a bill then pending in Parliament or otherwise, and a House to which any message is so sent has to consider with all convenient despatch any matter required by the message to be taken into consideration. This provision of the Constitution provides wide scope for the President to put forward publicly an expression of his own views when he deems it necessary. He might use this power to appeal from the Council of Ministers to Parliament when there is any advice by the Ministry to him which he is unwilling to follow.¹

Ordinance-Making Power. This power of the President arises as soon as either House is prorogued. If an ordinance is promulgated before the order of the prorogation is made and notified, the ordinance is void. Before issuing an ordinance, the President must be satisfied that circumstances exist which render it necessary for him to take immediate action. After promulgation every ordinance must be laid before both Houses as soon as Parliament meets, and it automatically ceases to have effect at the expiry of six weeks from the re-assembly of Parliament or earlier upon passing of resolutions disapproving it, by both the Houses. It may also be withdrawn at any time by the President. Two other things required in this connection are : (1) The content of the ordinance must be within the legislative competence of the Union; and (2) the President cannot incorporate provision in an ordinance to make it immune from attack in a court of law on the ground of its being *ultra vires* his legislative powers. An ordinance has the same force and effect as an Act of Parliament; but an ordinance is distinguished from an Act on the basis of procedures and sources adopted for their respective creation. If, on re-assembly (of Parliament) an ordinance is repudiated by both Houses of Parliament, it ceases to operate immediately; otherwise it can continue for another 6 weeks from the date of the re-assembly of Parliament.

Financial. These may briefly be stated here as follows: (i) A money bill, particularly a bill imposing or varying any tax or duty in which the States are interested, can be introduced in the Lok Sabha only with the prior recommendation of the President. (ii) The Contingency Fund is at his disposal; and he alone can make advances out of it, to meet unforeseen expenditures pending their authorisation by Parliament. (iii) As already pointed out, he is required to lay, before Parliament the 'Annual Financial State-

¹A. Gledhill, *Republic of India*, p. 103.

ment' and demands for supplementary as well as excess grants. (iv) The President is authorised to appoint Finance Commissions from time to time in accordance with the requisite constitutional provisions. (v) The President is also authorised to determine the States' share in the proceeds of the income-tax and other taxes on the basis of the recommendations of the Finance Commission.

Others. The President has some powers, which may be termed 'judicial'. Among these the most important is the pardoning power'. It comprises of various powers, viz., pardon, reprieve, respite, remission, suspension and commutation. While *pardon* rescinds both the sentence and conviction and also absolves the offender from all punishment and disqualifications, *commutation* merely substitutes one form of punishment for another of a lighter character, for example, death by transportation, rigorous imprisonment by simple imprisonment, simple imprisonment by fine and so on. The power of *remission* reduces the amount of sentence without changing its character. The power to grant *respite* means awarding a lesser sentence instead of the prescribed penalty. *Reprieve* means a stay of execution of a sentence pending a proceeding for pardon or commutation. While the Governor of a State has limited powers of pardoning, the President is the only authority who can pardon a sentence of death.

Emergency Powers. Provisions relating to various types of emergencies are contained in Part XVIII of the Constitution. The Constitution provides for three kinds of emergencies; (1) an emergency due to external aggression or internal disturbance, which may be described as a national emergency; (2) an emergency arising out of the failure of the constitutional machinery in any one or more of the States; and (3) a financial emergency.

National Emergency. If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may by proclamation, make a declaration to that effect. A proclamation thus issued (under article 352 (1) (a) may be revoked by a subsequent proclamation; (b) shall be laid before each House of Parliament; (c) shall cease to operate at the expiration of 2 months unless before the expiration it has been approved by resolutions of both Houses of Parliament: Provided that if any such proclamation is issued at a time when the Lok Sabha has been dissolved or its dissolution takes place during the period of 2 months and if a resolution approving the procla-

mation has been passed by the Rajya Sabha, but no resolution with respect to such proclamation has been passed by the Lok Sabha before the expiration of 2 months, the proclamation shall cease to operate at the expiration of 30 days from the date on which the Lok Sabha first sits after its reconstitution unless before the expiration of this period a resolution approving the proclamation has been passed by the Lok Sabha.

The actual occurrence of war, or eruption of internal violence is not necessary to justify a proclamation of emergency. The President may make such a proclamation if he is satisfied that there is an imminent (or even a distant) danger of external aggression or internal disturbance; and once the proclamation has been made, the courts are left with no jurisdiction to enquire into the matter, i.e., the authority of the President cannot be questioned in any court of law on any objective ground. The 38th amendment (1975) has definitely ruled out such a possibility, as it says that the satisfaction of the President shall be final and conclusive and shall not be questioned in any court. The said amendment further adds that the President can issue a proclamation even if a state of emergency already existed. For example, in June 1975, when an emergency was proclaimed on the basis of there being a danger of internal disturbance, an emergency already existed on the basis of external aggression.¹

While a proclamation of emergency is in operation (1) the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised; (2) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties upon the officers and authorities of the Union as respects that matter, notwithstanding that it is one which is not included in the Union List; (3) the President may by order direct that all or any of the provisions of articles 268 to 279 (relating to the distribution of revenues) shall for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, have effect subject to such exceptions or modifications as he thinks fit; (4) It shall be the duty of the Union to protect every State against external aggression and internal disturbance...; (5) while a proclamation of emergency is in operation provisions of article 19 (relating to freedoms) shall cease to have effect to the extent of incompetency with the order issued

¹Refer to 44th amendment in Chapter 4.

by the President); and (6) the President may by order declare that the rights conferred by Part III as may be mentioned in the order... shall remain suspended.¹

Emergency Arising from the Failure of Constitutional Machinery in a State. If the President on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution, the President may issue a proclamation under which (1) The President may assume any of the executive functions of the authorities of the State concerned; (2) the powers of the State Legislature may be transferred to the Union Parliament, but the Parliament is competent to confer such legislative powers on the President or authorise him to delegate to any other authority he thinks fit; and (3) the President may also take any other incidental or consequential action with the exception of taking away the powers of the State High Court. Any such proclamation may be revoked or varied by a subsequent proclamation. Further, such proclamation shall be laid before each of House of Parliament and shall cease to operate at the expiration 12 months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.²

Financial Emergency. If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or any part thereof is threatened, the President may by proclamation declare a financial emergency. Its consequences will be the following: (1) the Union Government shall give such financial directions to the States as it may think fit. (2) Any such direction may include (a) provision requiring the reduction of salaries and allowances of all officers, including judges of the Supreme and High Courts, of the States as well as the Union, and (b) provision requiring all money or other financial Bills to be reserved for consideration of the President, after they are passed by the State Legislature. Such a proclamation may also be revoked or varied by a subsequent proclamation. It shall be laid before each House of Parliament and shall cease to operate at the expiration of 2 months unless before such expiration it has been approved by resolutions of both Houses of Parliament.³

¹Articles 354, 355, 358 and 359.

²Articles 356 and 357.

³Article 360.

III. Council of Ministers

Constitutional Provisions. The Constitution contains only two articles (74 and 75) as regards the Council of Ministers. Originally, article 74 laid down : 'There shall be a Council of Ministers, with the Prime Minister at the head, to aid and advise the President.' 42nd amendment added : 'Who shall, in the exercise of his functions, act in accordance with such advice.' Later the 44th amendment inserted the Proviso : 'Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.' We shall critically examine the principle of "aid and advice" in its original and amended forms in section V.

Article 75 says : (1) The Prime Minister shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the Prime Minister. (2) The Ministers hold office during the pleasure of the President. (3) The Council of Ministers shall be collectively responsible to the House of the people (Lok Sabha). (4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and secrecy. (5) A Minister who for any period of 6 months is not a member of either House of Parliament, shall at the expiration of that period cease to be a Minister. (6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine. In the light of these articles, which gives only the broad outlines about the composition and functions of the Council of Ministers, we shall discuss here all the important aspects and features of the Cabinet form of government set up in the country under the Constitution of India as follows.

COMPOSITION AND CHANGES

Formation of the Council of Ministers. The key role in the formation of the Council of Ministers/Cabinet (the distinction between the two will follow) is played by the Prime Minister, formally appointed by the President, who has very little discretion in his appointment. The Constitution says nothing about the size of the Council and the kinds of ministers to be included in it. Both these things depend on the Prime Minister, who is now influenced by the conventions established in this regard and several political

considerations. Since the very beginning the Council has usually consisted of more than 50 ministers in all. Some have criticised the large size of the Council as being unwieldy as well as a financial burden. But in its justification it may be said that the country is so vast in area and population, with all sorts of social, cultural, linguistic and regional differences that representation should be given to all these factors. Moreover, the country has accepted the goal of a welfare state, naturally the number of departments in the Union Government is more than a hundred. To manage them effectively, ministers with a large number of portfolios have to be appointed.

Members of the Council are drawn from both Houses of Parliament ; a person, who is not a member of Parliament at the time of appointment, can remain in office only for 6 months, during which he should either be elected or nominated as a member or he has to resign after the expiration of that period. Quite obviously a much larger number of ministers comes from the Lok Sabha than from the Rajya Sabha, because the Lok Sabha is the popularly elected House, to which the Council, in actual practice, is collectively responsible. Moreover, the strength of the Sabha is also more than double of the other House. Although there is no such constitutional requirement, the Prime Minister usually belongs to the lower House and he/she is the leader of either a single majority party or of a coalition, which can command the confidence of the lower House.

In the selection of his/her team (or colleagues), the Prime Minister is technically free, but he acts under the influence of several considerations. These may briefly be stated as : (i) representation of the various States/regions ; (ii) representation of different communities ; (iii) in case of a coalition, due representation of all the constituents of the coalition ; (iv) in case of a single majority party, different ideological groups/factions are usually represented in the Council ; (v) most of the former ministers and stalwarts of the parliamentary party are provided berths in the Council ; (vi) party members known for their parliamentary experience, specialised knowledge, personal qualities, loyalty to the Prime Minister also find seats in the Council ; and (vii) influence of the top leaders in the party organisation. Although in theory the Prime Minister in a democracy is free to choose his/her colleagues, in the Indian setting, his/her freedom is restricted by political and practical considerations.

Changes in the Council of Ministers. Changes may be insignificant, minor and even major. Major changes occur as a result of reorganisation and reshuffling, when some new ministers are appointed and some former ministers are dropped as a result of reorganisation. A reshuffling may take place, when the Prime Minister tenders his own resignation, which also implies the resignation of the entire Council. Minor changes take place from time to time as a result of the resignation of a few ministers and/or the induction of a small number of new ministers into the council. Insignificant changes are caused by the resignation or induction of one or two ministers. Ministers may resign of their own accord, on account of differences with the Prime Minister or when the Prime Minister wants them to resign or their criticism in Parliament or outside forces them to tender their resignation. In case one or more ministers fail to resign even when asked to do so by the Prime Minister, the latter may himself resign and reconstitute the Council or he may advise the President to dismiss defiant ministers. Such a situation has never arisen so far as the Union Council of Ministers is concerned.

Following the Chinese attack in October 1962, Krishna Menon had to resign a month later, because his handling of defence matters was vehemently criticised in Parliament as well as in the party. K.D. Malviya was forced to resign in 1963 as a result of findings of the Das Commission. Lal Bahadur Shastri had submitted his resignation in 1956, considering himself responsible for the inefficient working of the Railway department under his control. Six prominent ministers of the Union Cabinet, including Morarji Desai resigned their membership of the Cabinet on an entirely different ground. Although these ministers were relieved of their responsibilities to undertake organisational work in accordance with the Kamraj Plan, the fact was that the said Plan had been devised to get rid of inconvenient or incompetent colleagues, whom Prime Minister Nehru could not remove in the normal way. Criticism of the performance of the railway ministry by the Prime Minister in October 1980 was believed to have prompted Kamlapati Tripathi to send in his resignation. In March 1981 V.C. Shukla was dropped from the Cabinet on account of poor performance of his ministry ; but it was believed that the real reason was his support to the party dissidents in his State (Madhya Pradesh). A minister, who tenders his resignation, is authorised to make a statement in Parliament or outside giving reasons for resignation ; but he cannot disclose

confidential decisions of the Cabinet.

Council of Ministers and Cabinet. A Council of Ministers may consist of four types of ministers : (i) Cabinet ministers or ministers of the cabinet rank ; (ii) ministers of state ; (iii) deputy ministers ; and (iv) parliamentary secretaries. Cabinet ministers are of the highest rank ; they participate in Cabinet meetings ; and they hold charge of important portfolios. Usually the number of Cabinet ministers is 12 to 15 in a Council of 50 to 60 members. It is the Cabinet which meets regularly as a body. It deliberates and decides upon all important matters of policy. Since the Cabinet is responsible for formulating government policy in regard to all internal and external affairs, the parliamentary system of government is also known as the Cabinet form of government. In short, Cabinet is the most important and indispensable part of the wider ring—the Council of Ministers. It may also be called the ‘corner-stone’ of the whole system. However, there is no mention of the term ‘Cabinet’ in the Constitution. In article 74, the Council of Ministers, for all important purposes, stands for the Cabinet. Ministers of state constitute the second rank or category ; a minister of state is given independent charge of a portfolio or department and is invited to attend Cabinet meetings whenever matters concerning his ministry come for deliberation before the Cabinet. The deputy ministers assist their senior ministers by relieving from their heavy burden of responsibilities. Parliamentary secretaries, the junior most amongst the ministers generally assist the senior ministers in the performance of their parliamentary and administrative duties. Only in the early stage, the Union Cabinet had some parliamentary secretaries. For long the practice of having parliamentary secretaries in the Union (and even in most of the State) Governments has fallen into disuse.

In the Union Cabinet during short periods there have been ministers without portfolio. Lal Bahadur Shastri and Krishna Menon remained in the Cabinet for some time in this capacity. A minister without portfolio is one whose advice is considered valuable in the deliberations of cabinet. A minister may be divested of his portfolio and yet retained in the Cabinet or he may be appointed in this capacity. The Prime Minister may designate the seniormost minister as deputy prime minister. Sardar Patel was deputy prime minister in the first ministry headed by J.L. Nehru. Morarji Desai remained as deputy prime minister for some time under Smt. Indira Gandhi. In the Janata Government headed by Morarji Desai there

were two deputy prime ministers—Jagjiwan Ram and Charan Singh, both of whom were serious contenders for Prime Ministership and insisted on having equal rank even as deputy prime ministers.

POWERS AND FUNCTIONS

As article 74 says the Council of Ministers aids and advises the President in the discharge of his functions. It is true that all ministers aid the President, but advice is tendered on behalf of the Council only by the Cabinet. It is conveyed to the President through the Prime Minister, who alone advises the President in several matters e.g. appointment of ministers, governors, other high officials, dissolution of the Lok Sabha, etc. Like the British Cabinet, the Union Cabinet performs the following functions in broad terms: (i) The final determination of the policy to be submitted to Parliament; (2) the supreme control of the national executive in accordance with the policy prescribed by Parliament; and (3) the continuous coordination and delimitation of the interests of the several departments.¹

It would be relevant to explain here briefly the meaning of the executive power. The executive function comprises both the determination of policy, as well as initiation of legislation. It also includes the maintenance of order, the promotion of social and economic welfare, the direction of foreign policy, in fact, the carrying on and supervision of general administration. 'The executive power may be broken up into the following amongst other heads: (a) administrative power, i.e. the power of appointments the execution of laws and general administration; (b) diplomatic power, i.e. conduct of foreign affairs and bringing the nation in contact with foreign nations and the United Nations; (c) military power, i.e. organisation of the armed forces and the defence of the country; (d) quasi-legislative power, for instance, the President's power to summon Houses and address the members of Parliament, and the rule-making power, etc; and (e) quasi-judicial powers, for instance, hearing of appeals, grant, cancellation or *revocation* of licences, permits, quotas, granting of pardons, reprieves and administration of administrative justice. These different powers are both express and implied.'²

¹*British Parliamentary Committee on the Machinery of Government*, 1918.

²M. C. J. Kagzi, *The Constitution of India*, p. 151.

As part of its legislative work, the Cabinet decides what legislative measures are to be enacted; their final drafts are approved by the Cabinet/ministers concerned and bills are introduced as well as piloted by the ministers in the Parliament. The Cabinet also makes ordinances, when the Parliament is not sitting and they are promulgated by the President. The Cabinet supplies leadership, initiative and resourcefulness to the Council of Ministers as well as the government. During the period of a national emergency, it advises the President to issue various kinds of directions to State Governments. Amended article 74 clearly says that the President shall proclaim an emergency on the advice of the Council of Ministers (i.e. Cabinet). In the event of the breakdown of constitutional machinery in a State, it advises the President to suspend fundamental rights and liberties of the citizens. We may now summarise the functions of the Cabinet as : (i) determination of policy including the preparation of President's Address to Parliament; (ii) control and supervision of general administration; (iii) continuous coordination in the work of various departments; (iv) approval of bills to be introduced in Parliament and ordinances to be promulgated ; (v) formulation of the budget, preparation of supplementary grants, appointment of Finance Commission, etc ; (vi) approval of the national plans and supervision of their implementation ; (vii) determination of foreign policy as well as defence policy ; etc.

ORGANISATION AND WORKING OF THE CABINET AND COUNCIL OF MINISTERS

The Cabinet and other ministers who are not members of the Cabinet perform their functions in accordance with the following well recognised principles :

Collective (or Joint) Responsibility. This has two aspects : first, all decisions of the entire Council of Ministers. All members of the Cabinet, even if some of them might have opposed a decision before it was reached, have to support them publicly and abide by them . As a matter of accepted practice, the Cabinet acts as a single executive. All those ministers, who are not members of the Cabinet, have also to support those decisions. In case a minister feels that he cannot honestly do so, the only course open to him is to tender his resignation. No minister can make any public utterance which may violate the principle of joint responsibility, Secondly, all members of the Council are collectively responsible to the Parliament.

In case the government is defeated on any issue in the Parliament, particularly the Lok Sabha, the entire Council of Ministers goes out of office, when the Prime Minister tenders his resignation. It has been very aptly remarked that the ministers swim and sink together. The Council of Ministers is directly responsible to the Parliament and through the Parliament to the electorate.

Functionally, the collective responsibility of the Council of Ministers means that the Council is a unified body which must take political responsibility for overall policies and actions as have its express or implicit approval. It is the mechanism and means for discharge of political responsibilities to Parliament for actions of Government other than for which an individual minister may be said to be responsible. Ministers both share in a collective responsibility for the general policies and record of the government and bear an individual responsibility for the actions and record of that portion of the administrative machine placed directly in their charge. In accordance with those conventional rules about collective responsibility, all members of the administration are expected to support its policies and its actions regardless of their private feelings in the matter. Should they for any reason no longer be prepared to do so, they must resign their office. Constitutionally, they cannot acquiesce in a decision and then at some later stage, e.g., when it becomes unpopular, claim that they were opposed to it and thus seek personally to escape political penalties.

Individual Responsibility. The principle of individual responsibility of a minister has two aspects : personal responsibility and departmental responsibility. Personal responsibility means such personal acts of omission and commission in the discharge of functions as minister that are of public interest for which the minister alone is held responsible. On the other hand, the minister as head of department is technically responsible for all that happens in his department. In Parliament he cannot put the blame for anything gone seriously wrong in his department at the door of a member of the civil service and plead his innocence in the matter. In the working of his ministry, he is (politically) responsible not only for matters of policy and planning but also for implementation and execution of the Cabinet decisions. This is why he is required to give answers to the questions put in Parliament about the working of his ministry. If he fails to discharge this responsibility, the honourable course for him is to resign or he may be asked by the Prime Minister to tender his resignation. A minister has to resign

in the face of severe criticism in Parliament and outside. It was on this score that T.T. Krishnamachari had resigned on the LIC and Mundra deals issue and L.B. Shastri had done the same for an inordinate number of railway accidents as railway minister.

Principle of Secrecy. As already pointed out, according to article 75(4), before a minister enters upon his office, he is administered with the oath of office oath of secrecy as well. It is obvious that a minister in the performance of executive functions, more particularly those that affect the security of the nation and the safety of its citizens, has to maintain secrecy. It is vitally important that different parts of the official apparatus maintain proper secrecy and confidentiality, should also be able and willing to distinguish between the need for secrecy and the need for communication, if for no other reason than that old and practical truth, that to conceal everything is to conceal nothing. 'The following points deserve to be noted about the subject of secrecy in government : (i) certain areas of executive functioning are legitimately secret ; (ii) secrecy is immensely difficult for any large governmental apparatus to preserve; (iii) much of the secrecy which characterises governmental decision making and documentation is unnecessary, and very often counter-productive of the public interest ; (iv) the doctrine of prior restraint (censorship) and of prior constraint should have better place in a free and open society ; and (v) the watch-dogs of the public interest against undue or improper secrecy are the legislature, the press, and the people themselves.'¹

Cabinet Working. The Cabinet usually meets once in a week ; and its meetings are held in New Delhi at Rashtrapati Bhavan, where the office of the Cabinet Secretariat is located. Sometimes, particularly when the Parliament is in session or a critical situation has arisen on account of war or emergency, the Cabinet may hold more than one meeting in a week, depending on the urgency and importance of the business to be transacted. Agenda for the meeting is duly circulated in advance ; but an item not included in the agenda may be raised in the meeting with the permission of the Prime Minister, who presides over the meetings. Only Cabinet Ministers are entitled to attend the meetings, but ministers of state are asked to attend when subjects concerning their ministries/departments are to be discussed. Even outsiders, e.g. Chief Ministers of States have also been invited in the past when their presence was

¹R. J. Venkateswaran, *Cabinet Government in India*, pp. 43-9.

considered helpful. In the same way when issues of a technical nature are considered, experts concerned with them are also invited to the meeting to explain points raised in the meeting. The Deputy Chairman and members of the Planning Commission are asked to attend when problems relating to their respective portfolios are on the agenda.

There is no quorum for Cabinet meetings and a vote is taken rarely, the decisions being arrived at on the basis of mutual discussions and understanding. The decisions taken at the Cabinet meetings are forwarded to the ministries concerned. The records of Cabinet meetings are kept confidential and in matters of exceptional secrecy, the decisions are not put down in writing. 'There are no definite rules as regards the subjects to be brought up for the Cabinet's decision. Matters of a routine nature are disposed of by the relevant department. Only very important issues are referred to the Cabinet. Sometimes even major problems are decided by the minister concerned in consultation with the Prime Minister or they are referred to the committee of the Cabinet and later confirmed by the latter. In some cases, the Prime Minister may take the decision on his/her own responsibility and then inform the Cabinet.' Two important changes were introduced by L.B. Shastri as Prime Minister : First, Cabinet decisions, which were not of a confidential nature, were released to the press by the Cabinet Secretary at the end of every meeting. Second, holding of informal meetings of the Cabinet at the residence of each Cabinet minister by rotation, but the Prime Minister himself usually presided over such meetings.

Cabinet Committees. An important element in the organisation and working of the Cabinet is the use of committees (and sub-committees). In 1957 the Cabinet had the following ten standing committees : the economic committee, the committee of heavy industries, the defence committee, the foreign affairs committee, the rehabilitation committee, the man-power committee, the scientific committee, the parliamentary and legal affairs committee, the information and broadcasting committee and the appointments committee. The strength of these committees ranged between three and twelve. The Prime Minister presided over all the committees and the home minister was a member of almost all the committees. Most of other cabinet ministers were included in the various committees ; and sometimes experts from outside were also invited to give their advice. Committees may consider important issues falling within their jurisdiction and submit their recommendations to the

Cabinet for final discussions on the subjects considered.

The Cabinet committees have been reorganised from time to time. A committee which is no longer needed is not constituted again, for example, the rehabilitation committee; and an emergency committee was constituted during the war in 1960. In March 1981, a Cabinet committee of nine members, headed by the Prime Minister as its Chairman was set-up for top-level decisions on science and technology policies. The formation of the Committee reflected the Government's highest priority, for science research and technology choices for which over Rs. 3,300 crores had been allocated in the sixth plan.

Cabinet Secretariat. Historically, the Secretary of the Viceroy's Executive Council remained as the Cabinet Secretary in 1947. In 1954, the O and M division was created, and was attached to the Cabinet Secretariat. The Secretariat is headed by the Prime Minister himself and consists of a Secretariat and an attached office—the Central Statistical Organisation. Under the allocation of business rules, the Cabinet Secretary advises the Prime Minister upon the classification of subjects and their grouping into suitable portfolios or administrative departments. He also maintains contact with different ministries in a general way. He keeps in touch somewhat more closely with the secretaries in charge of the different ministries and departments. In short, the Cabinet Secretary provides the eyes and ears for the Prime Minister to keep in touch with the process of official business, in the central government. The cabinet Secretary's is a very general staff function, not a true function in relation to the ministries.

The chief functions of the secretariat are : (1) to prepare agenda for meetings of the Cabinet. (2) to circulate memoranda and other documents among the ministers ; (3) to give notice for the meetings of the Cabinet and its committees ; (4) to keep record of the decisions arrived at in the meetings of the Cabinet and its committees ; and (5) to supply copies of the minutes to all the Cabinet ministers and where decisions concern departments not represented in the Cabinet, to supply extracts to the ministers incharge thereof.

IV. Prime Minister

In the whole ministry the Prime Minister's position is prime ; i.e., the central or the key position. He, in fact, appoints his colleagues of the Cabinet and other members of the ministry. He

decides the number and categories of ministers. He has powers to reconstitute or reshuffle his Cabinet at any time he likes ; he can advise the President to appoint new ministers or demand resignation from any one of the ministers. When he submits his own resignation the whole ministry goes out of office. He allocates portfolios to the various ministers. He presides over the meetings of the Cabinet and acts as the chief spokesman of the ministry as a whole on all occasions inside and outside the Parliament. He is the link between the Cabinet and the President and the channel of all communications. As the leader of the Parliamentary party he guides its deliberations, and enforces discipline among its members. He is also the Leader of the House, in which capacity he controls to a large extent the business of the House. The Prime Minister represents the Cabinet as a whole in a sense which is not true of any other colleague. He is looked to for the most authoritative statements and explanations of Government's policy.

Since the Prime Minister is the key-stone of the Cabinet arch, his resignation has the effect of dissolving the whole Cabinet and in case of a difference between him and any other minister, it is not the Prime Minister but the latter who has to resign. All inter-departmental disputes are referred to him in the first instance for decision. He keeps an eye on the policy and work of all the departments of the state. It is his special function to inform the head of the State, of the decisions taken at the meetings of the Council of Ministers. Finally, some of the highest offices of the government are filled on the recommendation of the Prime Minister alone. He may consult his colleagues if he likes. Apart from these, he presides over the Cabinet meetings and resolves any dispute among his colleagues.

Nehru's Role. The accepted theory of the relationship between the Prime Minister and his ministers is that he is *primus inter pares*. The other ministers are the colleagues of the Prime Minister and not his subordinates. The actual amount of the primacy that a Prime Minister has, depends upon his own capacity and influence with the party. In view of Patel's outstanding position in the Cabinet and the party, J.L. Nehru could not dominate the Cabinet in the way as he did at a later stage. 'Although Nehru had a free hand in shaping foreign policy, in internal matters no major decision was, or could be, taken without Patel's knowledge. There were occasions when Nehru and Patel were unable to agree on fundamental issues like the treatment of Muslims in India and the policy

towards Pakistan. It was Sardar Patel's powerful personality that prevented Nehru from having that amount of freedom in the Cabinet. After the death of Patel in 1950, Nehru came to enjoy far greater power in the Cabinet.¹

Sankhdhar also says : 'After Patel's death in 1950, Nehru was the virtual dictator. The last phase was that of the Kamaraj Plan and was one of absolute power for the Prime Minister. The difference between the second and third was that, in the first, occasions arose for controversies between the Prime Ministers and individual ministers such as, Ajit Prasad Jain, S.K. Patil, and T.T. Krishnamachari. Besides, Nehru faced opposition to Patnaik's appointment as foreign policy adviser, without his having any ranking in the Cabinet. Kamaraj Plan was partly an answer to these difficult problems. Then followed Nehru's era of personal glory and power, culminating in the 1962 steep decline.'²

L. B. Shastri's Role. At the time of Shastri's election as Prime Minister, Kamaraj, the Congress President, said : "It is impossible for anyone to fill the role of the great departed leader, and yet we have to shoulder the responsibility that has come to us. The responsibility cannot be discharged individually by anybody. It is by collective responsibility, collective leadership and collective approach alone that we can undertake this great task before us." This statement led to the impression that Shastri would be just one among equals in the Cabinet and that he would always have to act in consultation not only with his colleagues but also with the Congress President and other powerful leaders who had helped him in his election.

But Shastri was prompt in scotching such rumours. Soon after in a statement he said : "I cannot effectively function as Prime Minister of India if I yield to any pressure in such matters. I will not yield to any pressure from any quarter." Emphatically denying that he was acting under pressure by various groups he asserted : "I can say without any disrespect to any other colleague that I have not consulted a single person in so far as the formation of my Cabinet was concerned. Even additions and alterations were my own. In the matter of appointment of Ministers of my Government." His decision in ordering the Indian forces to march into

¹M. S. Verma, *Union Cabinet in India*, p. 79.

²M. M. Sankhdhar, *Reflections on Indian Politics*, p. 182.

Pakistani territory to repel aggression was hailed throughout the country. Till then, the people in India and abroad had thought of Shastri as a mild man, perhaps good enough for leading the people in time of peace.¹

Morarji Desai's Role. Even though widely believed and respected as a Gandhian and the most experienced political leader after Nehru, yet he failed to get the most powerful position in the country twice, before he actually became the Prime Minister in 1977. He headed the Janata Government and remained Prime Minister for less than two years. Even after his assumption of the most coveted office, misfortune did not leave him alone. The two other powerful contenders for Prime Ministership—Charan Singh and Jagjivan Ram—did not let him have a smooth sailing. Moreover, as head of a coalition government, he had to face many hurdles which came in his way on account of the constant in-fighting and lack of discipline in the party. When he became the Prime Minister, all sections of the people began to adore him for his fearlessness and his dedication to democratic processes. Though he was 82 at that time, he was physically fit and mentally alert.

His task as a Prime Minister was a very difficult one, which he tried to fulfil with great ability and dedication. He took a courageous decision in keeping Charan Singh and Raj Narayan out of the Cabinet for some time. But their re-entry into the Cabinet was foisted on him by leaders of the party. Under his leadership and able guidance, the Janata Government had started well and it would have done much better if the various groups constituting the Janata Party and their leaders had followed him, rather than force their views on him. The Government under him successfully restored the democratic processes, which had suffered during the emergency. An atmosphere of fearlessness was created, but it also had certain disadvantages which need not be discussed here. Morarji's attitude towards Smt. Gandhi, the outgoing Prime Minister, was not characterised by anger and revenge.

Smt. Indira Gandhi. 'The brief account of the immense and even fundamental changes in the constitution designed to make the Prime Minister a virtual dictator which Mrs. Gandhi carried through in a hurried manner, flouting proper procedures for such a change in a democratic Republic whose Constitution was solemnly framed by the front-rank statesmen, politicians and legal luminaries

¹R. J. Venkateswaran, op. pp. 145-146.

with the help of prolonged discussion among a very large number of politicians, legal experts, social workers and others, is an indication enough that she was in a hurry to keep some definite time schedule.¹

'In the years that she ruled, she turned all concepts upside down, perverted all standards of judgment. Spider like, she went on weaving a huge web of corruption around her and in a sense herself became its greatest victim. Drunk with power and success, she forgot that power divorced from morality was a sure road to disaster. She had lasted as long as she did mainly because of the part of the millions of dissatisfied, embittered individuals who submitted themselves to the redeemer cult that was systematically developed around her person. Once the mask was off, she fell headlong in the eyes of the people.'²

'Anyone who declined to take orders from this select set...had to go unceremoniously....Security men were placed outside the residence of senior ministers...Pai's description of the conditions prevailing in New Delhi those days reminds one of the atmosphere of intrigue and corruption that used to prevail in the Mughal Court in Delhi, just before or about the time of succession battle....The administration was geared to fulfil the personal ambitions of a few individuals in the Centre and the State.'³

Mrs. Indira Gandhi, who succeeded as Prime Minister in January 1966, has since then added to the prestige of the office and has been a pivot of the governmental structure. She handled the Bangladesh crisis in 1971 with superb efficiency and a high degree of co-ordinating skill. After 1971 she has displayed an even higher degree of executive and administrative discernment and swiftness of timely action to accelerate the wheels of socio-economic development in the country.⁴

'In short, Mrs. Gandhi is even more 'pragmatic' than her father, she is certainly a more accomplished demagogue. Like him she proclaims that vested interests obstruct social progress but she knows that she has to work with them as the alternative is social revolution that she could not control. She is genuinely secular,

¹G. S. Ghorrya, *India Recreates Democracy*, p. 359,

²Janardan Thakur, *All The Prime Ministers' Men*, p. 174.

³C. S. Pandit, *The Rise and Fall of Indira Gandhi*, pp. 182-89.

⁴N. M. Khilani, 'Salient Features of the Cabinet Government in India', I. C. P. S. Journal, Jan-March, 1977, pp. 99-100.

although religious rituals and ceremonies attract her a great deal and she has her religious preceptor. After winning the general election in 1967 by a narrow majority for her party, she insisted that Zakir Hussain, a Muslim, be the Congress party's candidate for the President in India. Mrs. Gandhi believes in fairplay for the different languages, religions and regional groups.¹

V. Critical Observations

We propose to give these observations, keeping in view the great virtue of brevity, under the following heading :

REAL POSITION OF THE PRESIDENT PRIOR TO 42ND AMENDMENT

The Lawyers' View. It gathers "the spirit of the Constitution" from its language. According to this the President had certain powers, which the constitutional head of a parliamentary democracy usually does not have. The President might (and may) act in his discretion in the following matters : (i) in the choice of the Prime Minister ; (ii) in a situation when the government of the Union cannot be carried on in the manner contemplated by the Constitution ; (iii) in regard to a request by a ministry defeated in the House of the People for the grant of a dissolution ; and (iv) in regard to signing a bill presented to him which in his judgment requires a reconsideration for any reason but the ministry is not for such reconsideration. 'To empower him to place his views before the Legislature and influence its opinion is to afford him an opportunity to compete with the Ministers for the leadership of the Legislature. Further, his power of returning a Bill, other than the Money Bill, with a message for reconsideration of the Bill is also objectionable, because in a parliamentary form of Government no bill has a chance of passage through the legislature unless it is supported by the Cabinet with a majority behind it.'²

'A strong man as President can and most probably will like to be a real executive, while a weak President will allow parliamentary conventions to continue in the administration of the Republic. The President of India is no doubt a unique head of the State, combining in himself some of the features of British traditions of the King who reigns and those of the American President who governs. But

¹Surinder Suri, *Politics and Society in India*, p. 126.

²R. N. V. R. Ma, 'The Indian President : His Constitutional Position', (1962, J. L. J. Footnote 1 at 87) Vol. II.

he is neither, what he will ultimately become will be determined by international and internal political conditions.' (B.M. Sharma).¹

Political Realists' View. 'The President of the Indian Union will be generally bound by the advice of his ministers. He can do nothing contrary to their advice, nor can he do anything without their advice.'—(B.R. Ambedkar).² If the President stands in the way of the Council of Ministers (collectively responsible to the House of the People) discharging its responsibility to the House, he will be guilty of impeachment.'—(A.K. Ayyar).³ 'The member should know that our Constitution is not modelled after the American Constitution ; it is completely different from it....It was rightly or wrongly, largely after the British model, with some variations of course.'—(J.L. Nehru in the House of the People on 4 July 1952).

Conclusion. The constitutional position is crystal clear. The President had no choice but to be guided by the advice of the council of ministers headed by the Prime Minister. 'He may be unhappy with the way the government is functioning at the Centre and in a state or states. He can communicate his unhappiness to the Prime Minister but he cannot override her decision. In Bagehot's famous words, he can guide, advise and encourage.... The President is above partisan politics. A president is a president, howsoever he is elected. At the very least his office obliges him not to enter into political discussions with opposition leaders except to keep himself informed so that he can advise the Prime Minister properly. He can commend restraint if opposition leaders are willing to listen to him ; he cannot commend action against the government even if he comes to hold it in contempt for its acts of omission and commission. A person who agrees to be elected President of the republic has to be willing to efface herself or himself. It is not easy to combine the psychology of self-effacement with the pomp and show of the office. But it is necessary so long as the political system is not in total disarray. Then we shall be in a different ball game which will produce its own rules.'⁴

'The conclusion is that while the Constitution, after the recent amendments, formally and expressly requires the President to

¹*Ibid*, p. 9.

²C. A. Debates, Vol. VII, p. 322 C. A. Debates, Vol. X, p. 270.

³Times of India, 26 Aug. 1974.

⁴Girilal Jain, 'President vs. Prime Minister : Constitutional Position Clear', Times of India, 15 Dec. 1981.

exercise his powers in accordance with the advice of his Council of Ministers, there is still left with him an area of discretion in the matter of appointment and dismissal of the Prime Minister, and in a very limited measure, in the matter of dissolution of the Lok Sabha. The only safeguard against the abuse of these powers by the President lies not in the formal constitutional provisions but in the good sense and patriotism of the President, besides the political realities and popular vigilance.¹

Principle of Aid and Advice. Some of the important approaches to the principle may briefly be stated here : (1) *Binding Nature.* According to this view the President is always bound by the aid and advice of the Council of Ministers. The provision under article 74 became binding only after its amendment in 1976. But its further amendment in 1978 again gives the President at least one opportunity for asking the Council of Ministers to reconsider its advice. (2) *The Other Extreme View.* It regards the principle only as persuasive. This view was shared by some of the prominent members of the Constituent Assembly, viz. K.M. Munshi, K. Santhanam and eminent foreign writers like Alan Gledhill and Sir Ivor Jennings. (3) *The Moderate View.* According to this view the President is normally bound by the aid and advice principle, but there are certain matters on which he should exercise his discretion.

Appointment and Dismissal of the Prime Minister. Ordinarily the President can have no discretion in the appointment of the Prime Minister, who is usually to be the leader of the majority party. The first question arises as to what the President should do when the Prime Minister dies while in office. Two such contingencies arose in 1964 and 1966. On both the occasions President Radhakrishnan installed the seniormost member of the Cabinet as an interim Prime Minister, until the majority parliamentary party chose a leader. 'Another contingency may arise upon the death or resignation of the previous Prime Minister, if there are two contenders for the office of the Prime Minister with somewhat evenly balanced number of members of Lok Sabha supporting each of them. Whom should the President in such an event invite first and, in case of dispute as to who has greater numerical support, how is he to resolve the controversy? Should he act at his own in the

¹H. M. Jain, 'Presidential Prerogatives Under the Constitution,' I. C. P. S., Journal, Apl-June 1978, p. 186.

matter of the choice of the Prime Minister ?”¹

Normally, following the British practice, the President should invite the leader of the opposition if the fortunes of the parties are reversed at the polls. No difficulty would arise if there is only one possible successor leader of a majority party or of a coalition of parties. In the absence of such possibilities, the President may take the initiative in forming a coalition, because in such a situation a leeway of negotiations exists in which the President may well become an influential figure. The President may also wait and let the political situation crystallise, which may have considerable political consequences for the fortunes of the rival claimants.

‘It is assumed that a ministry forfeiting the confidence of the Lok Sabha will resign instantly and it will not be necessary for the President to exercise his powers of dismissal. But there may be certain situations as suggested by the experience in the States in which the President may be impelled to exercise his pleasure against a Prime Minister. These are : (1) where a Prime Minister keeps himself in power by questionable means as evidenced by floor crossing from one party to the other and continuous expansion or shufflings of the ministry ; (2) where a ministry having lost its majority is not prepared to resign, nor is agreeable to convene an early session of the legislature for trial of strength ; and (3) where a Prime Minister refuses to resign even when he has lost the confidence of his party and the latter has elected a new leader in his place.’²

Prime Ministerial Form of Government. Prime Ministers in the United Kingdom and India have been so powerful that their critics have described their style of government dictatorial. But the facts do not justify such a description ; however, their government has aptly been designated “prime-ministerial.” The major period of Nehru’s prime-ministership, particularly after the exit of Sardar Patel from the Cabinet, was prime-ministerial. This statement is also true of Smt. Gandhi’s prime-ministership from 1971 to 1975 and during 1980 and 1982. Nehru had been much more than Prime Minister of India ; he had been a leader of Indian “revolution” (in all its aspects), the political heir of Gandhi, the leader of political organisation and a charismatic leader par excellence.³

¹H. R. Khanna, ‘Some Constitutional Problems and Possible Solution-1’, Indian Express, 12 Aug. 1979.

²H. M. Jain, *op. cit.*, pp. 182-83.

³N. D. Palmer, *The Indian Political System*, p. 117.

One other significant factor which has contributed to the great increase in the power of the Prime Ministers—both Nehru and Smt. Indira Gandhi—is the growth of the public sector. ‘The last few decades have seen an extra-ordinary increase in the sheer volume of governmental functions and of a complexity unknown before. Governmental intervention has expanded into whole fields of economic and social activity. New technologies, new kinds of industrial development, new organisational and methodological systems, new communication and control media, and generally the universal acceptance of the need for a planned economy for social progress have led to vast increase in governmental activity and the need for various kinds of regulations and controls by the government ; over which Parliament is unable to exercise constant and effective checks. ‘All this has meant the exercise of more and more power by the Central executive in many different ways. The Prime Minister, as head of the executive government is the beneficiary of this process. Parliament cannot oversee everything.’¹

Most of the factors, which were responsible for a vast increase in the power of Nehru as Prime Minister, have also contributed to Smt. Indira Gandhi’s dominance as Prime Minister not only in the government of the country (Union and States) but also in the party. Jagjivan Ram, a senior member of Smt. Gandhi’s Cabinet in 1975 said in 1977, that the Prime Minister had never consulted the Cabinet about the proclamation of the Emergency. The system of cabinet government under Nehru and Smt. Gandhi has been modified. But even in U.K., as already pointed out, the system today works somewhat in a different manner as compared to the widely accepted form. However, even in this, the will of the electorate as expressed through their directly elected representatives in the country’s Parliament ultimately prevails.

Proclamation of National Emergency. The Constitution of the United States does not specifically provide for any kind of emergency ; but during war the powers of the President and the Congress expand enormously. In the U.K., there is no prerogative of the Crown to make a proclamation of emergency. The emergency powers are given to the executive, both during war and in exigencies of internal disorder, under the authority of Parliament. Article 48 of the Weimar Constitution empowered the President to take any measures which he deemed necessary, including the abrogation of

¹S. S. Khera, *The Central Executive*, pp. 96-8.

fundamental rights, whenever it appeared to him that public security and order were seriously disturbed and endangered within the Reich.

‘From what has been said above, it would become manifest that the constitution of almost every country makes some kind of provision for emergency powers to meet aggression, external or internal, and other national emergencies. During the periods of grave national danger, the Executive is vested with certain abnormal powers. These powers are such which under normal circumstances the Executive does not possess. The legislative authority permits the Executive to perform some of its functions but there is not an absolute delegation of the Legislative authority. To put it more clearly, the Executive assumes emergency powers under the control of legislative authority’.¹

Though the safeguards of emergency control mechanism provided in the Indian Constitution seem fairly effective, yet in practice they failed, as is proved by the following facts : (1) Emergency declared on account of external aggression under article 352 of the Constitution was continued for years together without any justification whatsoever after the hostilities had ceased. For example, emergency declared on 26 October 1962 on account of Chinese aggression was continued till 1 January 1968 and the emergency which was declared on account of Pakistan aggression on 3 December 1971, was withdrawn only on 21 March 1977 after the defeat of the Congress Party in the elections. (2) Internal emergency was declared on 25 June 1975 for which according to Justice J.C. Shah, there was no justification, still it was approved by both Houses of Parliament. (3) Emergency powers under article 356 dealing with the failure of the Constitutional machinery in the States were also misused by (a) dismissing the State Ministries as was done by Hindenburg in Germany, when they had a majority in the Assembly ; (b) preventing non-Congress Party or a combination thereof to form the Government when it/they happened to be the majority party.

The safeguards against the misuse of emergency control mechanism failed because : (a) Parliamentary control was ineffective on account of the dominance of one party, (b) Prime Minister’s Presidents were in office, (c) lack of moral courage on the part of Ministers, (d) fait accompli presented before Parliament, (e) lack of

¹R. N. Misra, *The President of the Indian Republic*, p. 148.

constitutional morality, and (f) public apathy.¹

'In the modern context of the enormous tasks before the Government and the possibilities of challenges from several unexpected quarters, it may be necessary to retain the powers for the Government to deal with situations of an emergent nature. However, in the light of the recent experience of the gross abuse of emergency powers, it becomes imperative to ensure that these emergency powers are not abused in the narrower interests of personal or political aggrandizement. It, therefore, becomes necessary to evolve the institution of national consensus in order to invoke these emergency powers. The Council of Nation as suggested in the earlier part of this paper, may provide such an institution, as it will transcend the party considerations and will have the benefit of the guidance of such eminent persons, as the former Presidents and the former Chief Justices, in addition to the Prime Minister, Leader of Opposition, the Chief Justice of the Supreme Court, the Speaker of the Lok Sabha, the Chairman of the Rajya Sabha and the Attorney-General of India.'² The suggestion deserves consideration by political leaders of principal parties and the authorities.

Conclusion. Major accepted principles and established conventions of Cabinet Government have been observed in India. However, as already discussed, under the Prime Ministership of Nehru and Smt. Indira Gandhi, for most of the period, it took the form of Prime Ministerial Government. The importance of Cabinet has, therefore, been less than what it should have been. A great obstacle in the proper functioning of the Cabinet system had been the absence of a strong and united opposition, which could offer itself as an acceptable alternative to the dominance of the Congress Party. Only once in March 1977, the principal opposition parties succeeded in combining against the Congress Government led by Smt. Indira Gandhi. The electorate gave them a clear mandate to rule for a full term, but because the opposition parties had failed to adopt a common programme and the constituents of the coalition carried on their infighting the Janata Government failed miserably. The consequence was the return of Congress Party's domination and fragmentation of the opposition as before.

¹J. R. Siwach, '*Emergency Control Mechanism and Failure of Constitutional Safeguards in India*', I. C. P. S. Journal, Oct-Dec., 1978, pp. 371 & 374.

²H. C. Dholakia, '*Rethinking on Emergency Provisions*', I. C. P. S. Journal, Jan-March, 1978, pp. 41-2.

It has been observed that the size of the Cabinet including the Prime Minister should be limited to 16 and the Council of Ministers to 35, which may be expanded to 40 in special circumstances. This figure was thought the right one through experience. If this is done almost all subjects would receive adequate ministerial attention without too much pressure on one Minister and/or too little work load on the other. The allocation of port-folios should be so made as to secure representation of all departments in the Cabinet by one of its members. The functions and responsibilities of the Ministers of State and Deputy Ministers and their powers should be specifically laid down in appropriate rules and orders. The office of the Deputy Minister should be held by young members of the party and be treated as the training ground for the purpose of taking over higher places. This arrangement will provide a source of supply for future Cabinet rank of at least experienced men. The Junior Ministers should be assigned port-folios after consultation with the Cabinet Ministers.¹

‘In conclusion we may say that Cabinet form of Government has found acceptance in modern India. The reasons are that in our context nationalism, democracy, secularism and socialism have found an agreeable level in this system and that it has enhanced the scope for political stability contrary to the expectations of those who foredoomed it. It is significant that the process involved in the national movement and the important values around which there is substantial consensus at least at the national level which are conducive to the development of the process of democracy are fully articulated in this system and it has inspired more votaries for it than against it. Even the Communists who advocated the polit-bureau system have lived up to secure power through the ballot-box rather than through revolution. Other political parties have fully concurred to the Cabinet form and have become supporters of this system. It is, therefore, necessary that society be organised politically so that it can effectively express its diverse interests and provide a system of accommodation and mediation that meets the articulated demands and requirements and enrich the system. The Cabinet system has come to stay in India. Whether it steers to the right or to the left, democracy will prevail.’²

¹A. R. C. Report, Chap. II, 46.

²M. S. Verma, *op. cit.*, p. 148.

CHAPTER 7

Indian Parliament

“Parliamentary democracy is a participatory system in which the people, the Parliament and the Government have their own responsibilities and roles to play. All must cooperate in making a democratic enterprise a success. Parliament is central to the functioning of our democratic polity. Our Constitution is a people’s document and in whatever we do, the ultimate point of reference is the people and if, therefore, Government policies are to remain in a relationship of close and continuing responsiveness to the popular urges and expectations, it is obvious that administration should be looking up for inspiration and directional lead, to the collective will and wishes of the people’s representatives in Parliament.”¹

I. Composition

Indian Parliament consists of the President and two Houses, known respectively as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha).

The Rajya Sabha. It consists of (a) 12 members to be nominated by the President; they are to be persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service; and (b) not more than 238 representatives of the States and of the Union Territories. At present the total number of seats allotted to the various States and Union Territories is 232, distributed as follows: Andhra Pradesh 18, Assam 7, Bihar 22, Gujarat 11, Haryana 5, Kerala 9, Madhya Pradesh 16, Tamil Nadu 18, Maharashtra 19, Karnataka 12, Orissa 10, Punjab 7, Rajasthan 10, Uttar Pradesh 34, West Bengal 16,

¹Bal Ram Jakhar, *People, Parliament and Administration*, p. 21.

Jammu and Kashmir 4, Nagaland 1, Himachal Pradesh 3, Manipur 1, Tripura 1, Meghalaya 1, Sikkim 1, Delhi 1, Pondicherry 1, Mizoram 1 and Arunachal Pradesh 1.

The representatives of each State are elected by the elected members of the State Legislative Assembly in accordance with the system of proportional representation by means of the single transferable vote. The representatives of the Union Territories are chosen in such manner as prescribed by law of Parliament.

'...in respect of their composition, the two Houses of the Indian Parliament are to a large extent similar if not identical and the upper House is in no way much superior to the lower chamber so as to serve as a chamber of elderly statesmen of high learning and experience. Neither in terms of education and experience nor as a representative of interests, the Council can be said to approximate to an ideal second chamber. On the other hand, the like composition of the two Houses, definitely makes the upper chamber look a bit superfluous if not altogether useless.¹ However, educationally, the Rajya Sabha continues to maintain a nominal lead as can be seen from the following table :

EDUCATIONAL ATTAINMENTS OF MEMBERS OF RAJYA SABHA

(Percentage of Graduates, Post-graduates and Ph. Ds.)

Year	1952	1962	1972
Rajya Sabha	64.8	67.1	79.9
Lok Sabha	64.0	61.0	60.6

The marginal lead of the Rajya Sabha does not sustain the plea that the Rajya Sabha is superior intellectually. The Rajya Sabha also maintained a good lead over the Lok Sabha in respect of members having previous legislative experience, as shown below:

Year	1952	1962	1972
Rajya Sabha	9%	83%	87%
Lok Sabha	50%	80%	78%

¹Bhawani Singh, *Council of States in India*, pp. 49 and 73.

The age composition of the Rajya Sabha has also been almost similar to that of the Lok Sabha as indicated by the following figures in the most numerous age groups :

Year	1952	1962	1972
Rajya Sabha	51—55	51—55	46—50
Lok Sabha	41—55	41—55	46—50

The Lok Sabha. Subject to the provisions of article 331 (which empowers the President, if he is of the opinion that the Anglo-Indian community is not adequately represented, to nominate not more than 2 representatives of that community) consists of (a) not more than 525 members chosen by direct election from territorial constituencies in the States; and (b) not more than 20 members to represent the Union Territories, chosen in such manner and as provided by Parliamentary law. The number of seats are allotted to each State in such manner that the ratio between that number and the population of the State, in so far as practicable, remains the same for all States; and each State is divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it, so far as practicable, is the same throughout the State. The word 'population' in this provision means the population as ascertained at the last census : Provided that reference to the last census of which the relevant figures have been published shall, until the relevant figures for the first census after 2000 have been published, be construed as a reference to 1971 census.¹ Upon the completion of each census, the allocation of seats in the Lok Sabha to the States and the division of each State into territorial constituencies is to be readjusted by the Delimitation Commission as determined by Parliamentary law. The allocation of seats among the States and Union Territories is as follows :

Andhra Pradesh	42	Assam	14
Bihar	55	Gujarat	26
Maharashtra	48	Madhya Pradesh	40
Tamil Nadu	39	Karnataka	28
Orissa	21	Punjab	13
Rajasthan	25	Haryana	10

¹This proviso was inserted by the 42nd amendment, 1976.

Uttar Pradesh	85	West Bengal	42
Kerala	20	Jammu-Kashmir	6
Delhi	7	Himachal Pradesh	4
Manipur	2	Tripura	2
Pondicherry	1	Nagaland	1
Meghalaya	2	Goa, Daman and Diu	2
Andaman-Nicobar	1	Chandigarh	1
Mizoram	1	Dadra and Nagar Haveli	1
Arunachal Pradesh	1	Sikkim	1
Laccadive Island	1		

Qualifications for Membership. A person is not qualified to be chosen to fill a seat in Parliament unless he (a) is a citizen of India and makes and subscribes before an authorised person prescribed oath or affirmation ; (b) is, in the case of a seat in the Rajya Sabha, not less than 30 years old and, in the case of a seat in the Lok Sabha, not less than 25 years old ; and (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament. Some of the disqualifications may also be stated here as : (i) A person sentenced to imprisonment for crimes committed under Indian Penal Code, sections 171 (E) and (F) is disqualified for a period 6 years ; and (ii) A person sentenced to punishment for any corrupt or illegal practice in the election is also disqualified for 6 years, but such a disqualification can be removed by the Election Commission. (iii) A person holding an office of profit, excluding ministership and some other offices exempted by Parliamentary law, is not eligible ; (vi) A person pronounced as of unsound mind by any court authorised to do so ; and (v) A person who is an undischarged insolvent. Any member can resign his seat by writing to the Chairman of the Rajya Sabha or the Speaker of the Lok Sabha, as the case may be. If a member remains absent without the permission of Parliament for a period of 60 days, the period for which the House remains prorogued or adjourned for more than four consecutive days is excluded. M. Mohanaragam, on 30 September 1982 was disqualified from the membership of the Rajya Sabha, as he was holding the post of Special Representative of the Tamil Nadu Government. But he was again elected as a member.

The present Lok Sabha has younger and educationally more qualified members than in the previous House. A study of the socio-economic back-ground of the members of the Lok Sabha, seventh since independence by its secretariat, also shows that it has

a larger number of 'agriculturalists' than the sixth Lok Sabha which was prematurely dissolved in 1979. The present Lok Sabha has also a higher number of members with previous legislative experience. The number of women in the present Lok Sabha is more than in the preceeding Lok Sabha.

The average age of the members of the present Lok Sabha, constituted in January, 1980, comes to 40.9 years as against 52.1 years in the previous House when the Janta Government was in the saddle. It is nearer to what it was in the third and fifth Lok Sabhas 49.4 years and 49.2 years respectively. Thus while the average age has been going up right from the first to the sixth Lok Sabha except for a slight fall in the fourth Lok Sabha, it has noticeably come down in the present house. The largest concentration of members (74.7 per cent) is in the age group of 36-60 years. It is almost the same as it was in the sixth Lok Sabha (74.1 per cent). One third of the present Lok Sabha is composed of the members in the age group of 50-60 as compared to 29.9 percent in the sixth Lok Sabha.

Though the Constitution does not prescribe any educational qualification for the MPs 67.4 percent or more than two-thirds of its members are university graduates or possess higher qualifications. This compares well with the position in the sixth Lok Sabha (65.3 per cent). The number of graduates (excluding those possessing post-graduate degrees) in the present House is 46 per cent which is higher than in all the previous Lok Sabhas. The post-graduates have also increased in the present House from 24.4 percent to 24.9 percent. The numbers of members with university degrees have steadily been going up since the first Lok Sabha in 1952. However, there has been a decline in the number of members holding doctoral degrees or other higher qualifications. They now constitute only 1.4 as against 3.5 per cent and 1.7 per cent in the first and sixth Lok Sabhas. About 168 members are only matriculates or intermediate certificate holders, constituting 22.3 per cent of the membership while 10.2 per cent of them are under-matriculantes. Thus nearly one-tenth of the total membership now is composed of under-matriculantes which is slightly higher than in the sixth Lok Sabha (9.8 per cent), but lower than in the other Lok Sabhas.

Agriculturists now occupy the dominant position (39.52) among all the professions. Their representation has been consistently increasing from 1955 when it was as low as 22.4 per cent. In the last House it stood at 36.3 per cent. There are 112 lawyers in the House now (22 per cent) as against 123 (23.4 per cent) in the

sixth Lok Sabha. Their position has been on the decline all along except in the fifth and sixth Lok Sabhas. This group out-numbered all others in the first and second Lok Sabhas. Next to the agriculturists the largest group is of 'political and social workers'. It emerged as an important group on the parliamentary scene in the third Lok Sabha. Their highest representation (22.9 per cent) was in the fourth Lok Sabha. In the present House their number has declined to 89 (17.5 per cent) as against 105 (20 per cent) in the last House. The representation of 'industrialists and traders' has also been on the decline. It was 12 per cent in 1952 but came down to 3.3 per cent in 1977. They have improved their position in the present Lok Sabha by almost doubling their number from 17 in the last House to 32 in the present House. The representation of teachers and educationists is now 6.5 percent as against 8.4 percent in the sixth Lok Sabha.

II. Organisation

Session, Prorogation, Dissolution etc. The President (ordinarily on the advice of the Cabinet) from time to time summons each House to meet at such time and place as he thinks fit, but six months must not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. The President may (again, ordinarily on the advice of the Cabinet/Prime Minister) prorogue the Houses or either House and dissolve the Lok Sabha. When the Houses of Parliament are in session the sitting of each House commences at 11 A.M., and concludes at 5 P.M. each day. It can prolong its sitting even after 5 P.M., if it is desirable and the Chairman or the Speaker, as the case may be, so directs. It may adjourn to an hour, or part of the day, to a number of days or *sine die*. An adjournment of a House has no effect on the uncompleted business of the House which can be resumed, when it is called to a sitting by the Chairman or the Speaker. It can be called to a sitting at any time earlier than the day fixed for its re-assembly.

President's Address, etc. The President may address either House of Parliament or both Houses assembled together. He may also send messages to either House, with respect to a Bill pending in Parliament or otherwise. At the commencement of the first session after each general election to the Lok Sabha and at the commencement of the first session of each year, the President has to address both Houses of Parliament assembled together and inform Parliament of the causes of its summons. This is President's special

address, which can be compared to the Speech from the Throne in the U.K. Parliament. Every minister and the Attorney-General of India has the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but he is not entitled to vote.

Duration of the Houses of Parliament. Rajya Sabha is a permanent Chamber, not being subject to dissolution; but 1/3rd of its members retire every two years. After the expiration of first two years, all members are elected for a term of six years. The Lok Sabha, unless sooner dissolved continues for five years from the date appointed for its first meeting and on the expiry of this period it *ipso facto* dissolves. But if a Proclamation of Emergency is in operation such period may be extended by Parliament; however extended, such period can not be more than a year at a time and in no case can it last more than six months after the proclamation has ceased to operate.

Officers of the Rajya Sabha. The Vice-President of India is the ex-officio Chairman of the Rajya Sabha. Chairman of the Rajya Sabha controls the Rajya Sabha Secretariat, headed by the Secretary-General. His control is absolute. He is the supreme appointing and appellate authority. In the absence of parliamentary enactment, the President of India, in exercise of the powers conferred by article 98(3), made the 'Rajya Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1957' and in exercise of the powers conferred by Rules 4 and 5(2) the Chairman of the Rajya Sabha made the Rajya Sabha Secretariat (Methods of Recruitment and Qualifications for appointment) Order, 1958.

Besides the Chairman, there is also a Deputy Chairman, elected from amongst the members of the House. He officiates for the Chairman during the latter's absence. In addition to the Chairman and Deputy Chairman, there is also a panel of not more than four, nominated by the Chairman. They act temporarily during the absence of the Chairman and the Vice-Chairman and do not receive any special allowance other than what is already admissible to them as members of the House. Besides these elected officers, the Rajya Sabha has a complete secretariat of its own, headed by the Secretary, Joint Secretary, Deputy Secretary, Under Secretaries and a host of other trained and skilled staff belonging to the professional bureaucracy, which works under the overall control of the Chairman.

The Speaker and Deputy-Speaker of Lok Sabha. The House,

as soon as may be, chooses two members of the House to be respectively Speaker and Deputy-Speaker thereof and, so often as any of these offices becomes vacant, the House is required to choose another member to be Speaker or Deputy-Speaker, as the case may be. A member holding any of these offices (a) can vacate his office if he ceases to be a member of the House; (b) may at any time, by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy-Speaker, to the Speaker, resign his office; and (c) may be removed from his office by a resolution of the House passed by a majority of all the then members of the House : Provided that no resolution for this purpose can be moved unless at least 14 days' notice has been given of the intention to move the resolution : Provided further that whenever the Lok Sabha is dissolved, the Speaker is not to vacate his office until immediately before the first meeting of the Lok Sabha after the dissolution.¹

The Constitution of India contains identical provisions relating to the Speaker and Deputy-Speaker of the Lok Sabha (and their counterparts in the State Legislative Assemblies). It lays down only the main duties and responsibilities of the Speaker. These may be broadly stated as follows : (1) To preside over the House, whenever he is present in the House, excepting when a resolution for his removal from office is under consideration. (2) To adjourn the House when there is no quorum. (3) To permit a member, who cannot adequately express himself in Hindi or English or the official language of the State, to address the House in his mother tongue. (4) To exercise a casting vote in the case of an equality of votes.²

Under the administrative powers, his decision to admit notices of questions, motions, resolutions, amendments, bills etc., is final. The Rules of Procedure (supplemented by a large number of rulings and conventions) lay down certain guiding principles for determining the admissibility of the notices. He is the sole authority to judge the importance and urgency of a matter and to determine whether the national interest would be served by admitting a notice. He may call upon a member of the Government to place before him facts, evidence and information which he may consider necessary in arriving at a decision. He communicates the decision of the House to the authorities concerned and requires them to comply with such

¹Articles 93 and 94.

²Articles 181 and 189.

decisions. He is responsible for providing the accommodation for the sittings of the House and its committees. He is also responsible for the residence of the members, for ensuring the unhindered right of the members to the approaches to the Parliament House, for telephones, etc.

The Speaker interprets the Constitution relating to Parliamentary matters and the Rules of Procedure, and his decision is final. He determines when a member should be called upon to speak and how long he should be allowed to speak. He can order a member to discontinue a speech or to withdraw words which he feels are unparliamentary or undignified; and he may order expunction of passages from the records. He may ask a member to withdraw from the House for a day or part of a day for disorderly behaviour or may even suspend a member from the services of the House on a proper motion for gross disorderly behaviour. The Speaker is also the supreme head of all Parliamentary Committees set up by him or by the House. He issues directions to the chairmen in all matters relating to their working and the procedure to be followed by them. He guides them by holding periodical consultations with their chairmen and members.

Unlike the Speaker, the Deputy-Speaker has a right to speak in the House, to take part in its deliberations and to vote on any proposition before the House as a member, but this he can do only when the Speaker is presiding. When he himself is in the chair, the Deputy-Speaker cannot vote except in the event of equality of votes. He has a right to take part in the politics of the party to which he belongs, although in practice he also, as far as possible, keeps aloof from active participation and controversial issues in order to maintain his position of impartiality in the House.

The third important officer of the House is the Secretary-General, who is the adviser to the Speaker and to the House through the Speaker. He discharges on behalf of the Speaker all administrative and executive functions and renders services and provides facilities to the members. He is the keeper of all parliamentary records, and is the head of the Secretariat of the House. He provides secretarial assistance and staff to all the Parliamentary Committees and is available to them for advice. 'His role is that of a friend, philosopher and guide to the members and the committees. Members of the various political parties approach him for advice. To a very large extent he has to maintain the same role

of impartiality and objectively as that observed by the Speaker.'¹

'Even after about three decades of the commencement of the Constitution, no tangible convention regarding the office of the Speaker has been established in this country. The political parties, on account of lack of political maturity and constitutional morality, have not, in any way, helped the Speakers to shed away their partisan character after their election to the chair. Rather at times, they force him to indulge in active party politics. The framers of the Constitution did not lose sight of such practical problems connected with the office of the Speaker. In fact, they had visualized well in advance that 'in spite of the august position of the chair, occasions may arise when legislators might be aggrieved, and feel the necessity to get rid of a Speaker who dabbled into active politics and thus violated the spirit of the Constitution. Consequently, they made a provision for the removal of the Speaker by the House. It is important to note that article 94 mentions about 'a member holding office as Speaker or Deputy-Speaker of the Lok Sabha'. These are significant words. From this it is clear that the article in question is applicable only to the persons who have been elected as Speaker or Deputy-Speaker under article 93. It does not apply to members, except Deputy-Speaker, who may be acting as Speaker.'²

Oath, Emoluments and Privileges of Members. Every member of either House of Parliament before taking his seat, has to make and subscribe before the President, or some person appointed in that behalf by him, prescribed oath or affirmation. Members of Parliament are entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law. The monthly allowance of members was raised on 2 March 1981 from Rs. 500/- to Rs. 1000/-. This was in addition to their salary of Rs. 500/- per month. Soon after the Lok Sabha election in 1977, the office of the Director of Estates was besieged by new M. P.s demanding immediate allotment of residential accommodation. The Directorate was hard put to provide suitable accommodation, because less than 200 of the over 350 defeated M. P.s had vacated their flats a month after the Lok Sabha results were announced. Having succeeded in securing accommodation of their liking, these M. P.s went about getting it furnished and white-washed as they

¹S.L. Shakdhar, *Glimpses of the Working of Parliament*, pp. 33-42.

²J.N. Singh Yadav, 'The Term and Vacancy in the Speaker's Office', I.C.P.S. Journal, July-Sep. 1980, p. 229.

liked at government expense. Apart from this each M. P. gets two telephones with 7,500 free calls each per year and two first-class railway fares during a session lasting 75 days and four such fares for longer sessions. He also gets a daily allowance of Rs. 51/- for attending Parliament session and sitting on committees. Other benefits include water, electricity, constituency and secretarial facilities or Rs. 500/- in lieu and pension benefits. There are Central Government health dispensaries, first aid posts and a well-equipped examination centre in Parliament House for treatment of himself and his family are among the other advantages he enjoys.¹

Amongst the Commonwealth countries, British M.P.s get Rs. 101,250 as salary per annum which is taxable. They also get Rs. 16,875 as allowance per annum, Rs. 22,500 as secretarial expenses and reimbursement of tax fares. Besides, they have unlimited facilities by rail, air or boat between residence, constituency and the capital. In Australia an M.P. gets Rs. 193,608 as salary per annum which is taxable. He also gets Rs. 54,819 as electoral allowance, Rs. 3,204 as allowance and Rs. 288 per sitting day of parliament. Canada gives its members Rs. 162,000 per annum as salary and Rs. 72,000 for reimbursement of expenses which are taxable.²

Parliamentary Privileges. The powers, privileges, immunities, etc., of the Indian legislatures are contained in articles 105 and 194 of the Indian Constitution and its clause (3) specifically says that until so defined by law, they shall be such as those of the House of Commons in the U.K.' The House of Commons has suspended and expelled its members for a number of offences and misdemeanours such as corruption, forgery, perjury, moral turpitude, criminal offence, obstructing the business of the House, disorderly behaviour, etc. A large number of people have been punished for breach of privileges, defamation, libels and committing contempt of the House. Indian legislatures have also treated these very grounds as sufficient to constitute the breach of privileges. The House has the power, *inter alia*, to punish persons, including its members, for its contempt and for breach of its privileges. The punishments awarded to the recalcitrant members and outsiders range from imprisonment fine, admonition, reprimand to suspension and expulsion from the House.

¹Achal Mehra, 'The Price of Being Ruled', 'Times of India', Sep. 1979.

²Times of India, 3 Jan. 1981,

In India, Hardwari Lal's case is an addition to the list of similar cases of expulsion. H.G. Mudgal (1951) was expelled for accepting bribe and thus his conduct was held to be derogatory to the dignity of a member of the House. Dhote (1964) was expelled for throwing a paper-weight and J.B. Kridatt (1966) for throwing a chappal on the Chair. Erskine May has stated in his famous book on Parliamentary Practice that the purpose of expulsion "is not so much disciplinary as remedial, not so much to punish members as to rid the House of persons who are unfit for membership". It has also been pointed out that expulsion causes vacation but does not constitute dis-qualification. The supremacy of penal power of the legislatures in such matters has so far been recognised by courts and has received statutory recognition in India too.

Suitable safeguards are provided in the Constitution to ensure that Parliament (and the State Legislatures) can perform their legitimate functions without any outside interference. For instance, the validity of any proceedings of Parliament (or State Legislatures) cannot be called in question on the ground of any alleged irregularity of procedure. However, no comprehensive law has so far been passed by Parliament under clause (3) of article 105 to define the powers, privileges and immunities of each House, and of the members and the Committees thereof. Even in the United Kingdom, no attempt has so far been made to codify the entire law on privilege. In India the plea for codification of privileges was put forward in 1954 by the Press Commission. But the Conference of the Presiding Officers unanimously decided that "in the present circumstances codification is neither necessary nor desirable." It is relevant in this connection to refer to what the Speaker of Lok Sabha stated at the Conference of Presiding Officers in January, 1965 : "The courts in India have clearly stated that if the present provision in the Constitution is replaced by an ordinary law of Parliament, the courts will have full power to examine *vires* of such law, to entertain applications and writ petitions as in the case of any other law and to pass such judgment as the courts may deem fit."

A House of Parliament can punish anybody inside or outside the House. If a breach of privilege is alleged to have occurred, the matter is raised by a member at the earliest possible opportunity when it takes precedence over all other business. If the Speaker (or Chairman) is convinced that a *prima facie* case of breach has been made out, the House may proceed to deal with the matter itself or the Leader of the House may move that the question be referred to

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the committee of privileges. The committee is drawn from all sections of the House and consists of members with some parliamentary experience and a knowledge of English practice. The committee may summon the accused and examine him. If he acknowledges the error of his ways and apologise for his conduct, the committee may recommend that his apology be accepted. The report of the committee is then considered by the House, which decides whether the offender should be punished and if so to what extent.

Privileges of Members. Among these the most important is that relating to freedom of speech. No action can be taken against a member for his speech in the House ; and this includes publication of his speech by order of the House. It enables members to make disclosures in public interest without fear of being punished for libel on that account. It also ensures that in ventilating public grievances, a member will not feel compelled to withhold information for fear of harmful consequences to himself. Freedom of speech has come to include protection in a fair report of the speech, in the press as a part of a report of the proceedings of the House. But only such speeches which are published along with the reports of other members are privileged. A member who gets his own speech published for his own direct or indirect benefit is not privileged. Similarly publisher of a parliamentary debate is protected if only the whole debate is published.

This privilege does not extend to publication of debates outside the Parliament. The Calcutta High Court in the case of *Suresh vs Punita* (1951) (Cal 176) held that there is no privilege in a prosecution for defamatory matter contained in the publication of proceedings of a legislature, without its authority, whether it is true report or not. The members presumably cannot claim privilege in respect of letters written by them to a Minister outside the House, though such matters might relate to the discharge of their duties as members. In 1956, in keeping with the practice followed in British Parliament, Parliamentary Proceedings (Protection of Publication Act) was passed by Indian Parliament to protect substantially true reports of Parliamentary proceedings, by any person, (member or stranger), from any legal proceedings, civil or criminal. But in 1976, when national emergency was clamped in India, the Act was repealed by Parliament. The intention of the repealed Act was that the press should be held exclusively responsible and ready to face defamation charges in the courts of law, about what a news-paper

publishes about proceedings in Parliament. Thus immunity of the press was withdrawn, though the same has now been again restored to Indian Press.

Though opinions might differ on the ticklish issue whether fundamental rights can override article 105 of the Constitution or vice versa, yet it appears that the intention of the Constitution makers was to extend absolute and unrestricted freedom to the elected representatives of the people, because words 'subject to the provisions of the Constitution' occurring in article 105 (1) have been omitted in article 105 (2) of the Constitution. In the case of *Jagat Guru Shankaracharya*, the Supreme Court also made amply clear : "It is the essence of parliamentary system of Government that the people's representative should be free to express themselves without fear or legal consequences. What they say is only subject to the rules of Parliament, the good sense of members and control of proceedings by the Speaker."

III. Parliamentary Procedure

Conduct of Business. Before participating in the business of any House, a member has to take the prescribed oath or make an affirmation. If a member sits or votes as a member of either House before he has taken the oath, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he is liable in respect of each day on which he so sits or votes to a penalty of Rs. 500/- to be recovered as a debt due to the Union.

All questions, excepting those for which a separate provision is made in the Constitution, before either House of Parliament or a joint sitting of the Houses are determined by the members present and voting, excepting the Presiding Officer, who has a casting vote only in case of any equality of votes. Until otherwise provided by Parliament, 1/10th of the total member of either House, shall form a 'quorum', and the Presiding Officer is authorised either to adjourn the House or suspend the meeting until there is a quorum. Either House has power to act notwithstanding any vacancy in the membership thereof.

Joint Sitting of Both Houses in Certain Cases. If after a Bill has been passed by one House and transmitted to the other House (a) the Bill is rejected by the other House ; or (b) the Houses have finally disagreed as to the amendments to be made in the Bill ; or

(c) more than 6 months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has lapsed by the reason of a dissolution of the Lok Sabha, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill.¹

Money Bill. A Bill is deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters : (a) the imposition, abolition, remission, alteration or regulation of any tax ; (b) the regulation of the borrowing of money... ; (c) the custody of the Consolidated Fund (CF), the payment of moneys into or the withdrawal of moneys from any such fund ; (d) the appropriation of moneys out of the CF ; (e) the declaring of any expenditure to be expenditure charged on the CF or the increasing of the amount of any such expenditure ; (f) the receipt of money on account of the CF or the public account of India or issue of such money or the audit of the accounts of the Union ; or (g) any matter incidental to any of the matters specified above. If any question arises whether a Bill is a Money Bill or not the decision of the Speaker of the Lok Sabha thereon is final.²

Rules of Procedure. Each House of Parliament, subject to the provisions of the Constitution, may make rules for regulating its procedure. The President, after consultation with the Chairman of the Rajya Sabha and the Speaker of the Lok Sabha may make rules as to the procedure with respect to joint sitting of, and communication between, the two Houses. Parliament may for purposes of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in each House in relation to any financial matter or to any Bill for the appropriation of moneys out of the CF. Subject to the provisions of article 348, business in Parliament is transacted in Hindi or in English : Provided that the Chairman of the Rajya Sabha or Speaker of the Lok Sabha, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in Hindi or in English to address the House in his mother tongue. No discussion can take place in Parliament with respect to the conduct of any Judge of the Supreme Court or High Court. The validity of any

¹Article 108.

²Articles 109 and 110.

proceedings in Parliament cannot be called in question on the ground of any alleged irregularity of procedure.

All questions are raised in the House in the form of motions. If it is a resolution the agenda says : 'Hon'ble...to move that in the opinion of this House....' Resolutions whether official or private are easily disposed of. The mover makes the motion by reading it and follows it up by a speech in its favour. If those who follow him favour the motion, they also communicate to the House. But the opponents can either move a substantive amendment to the motion, replacing a part or the whole of the motion by an opinion of their own or move a dilatory amendment postponing the question being put to a distant date. Motions and resolutions are discussed mainly on government initiative ; but motions of no-confidence may be introduced when fifty members have indicated their support. As in Great Britain, the adjournment may be used to discuss 'definite matters of urgent public importance'; but the Speaker shows a marked reluctance to accept such motions and treats the rules governing them very restrictively. More important, and without parallel in the British Parliament, are 'discussions on matters of urgent importance for a short duration', which require no notice but only the Speaker's permission.

Stages in the Passing of a Bill other than a Money Bill. Ordinarily, a month's notice is required for leave to introduce a Bill. Every Bill is required to pass through the following stages :

Introduction of a Bill The mover of a Bill first seeks leave of the House to introduce it ; at this time he may give a brief explanation. An opposing member also has a right to make a few remarks at this stage. Without any more discussion the question is put and if the majority of members are in favour of leave being granted, the mover forthwith introduces the Bill.

(ii) After a Bill has been introduced, it is published in the Government Gazette. However, when the Speaker orders the publication of a Bill in the Gazette even before a motion for leave to introduce it has been made, such a motion is not required. When the Bill is afterwards introduced it is necessary to publish it again.

(iii) After introduction of a Bill the mover may move one of the following motions : (a) that the Bill be taken into consideration at once ; (b) that it be referred to a Select Committee ; or (c) that it be circulated for eliciting public opinion. When any of these motions is made, the principles and general provisions of the Bill are discussed, but not details. This is the First Reading of the Bill,

If the Bill is circulated for eliciting public opinion, it may be referred to a Select Committee, which may hear necessary evidence. It has to submit its report with dissenting minutes, if any, within two months ; but its period may be extended by the House. The Report is published in the Gazette and also circulated among members. The Report is then presented to the Legislature by the member in charge of the Bill with a brief explanatory speech.

(iv) After the presentation of the Report the member may move that the Bill as reported be taken into consideration (or be recommended to the Select Committee or circulated for eliciting public opinion). If it is agreed to take the Bill into consideration immediately, the Speaker submits the Bill clause by clause separately to the vote. At this stage amendments to any clauses with one clear day's notice are moved. Amendments are put to vote first and the clause in its original or amended form afterwards. This is the second reading of the Bill, which is the most important stage in the passing of a Bill.

(v) After the motion that the Bill be taken into consideration with or without amendments is agreed to, the member can move at once or at a later stage that the Bill be passed. At this stage only verbal amendments are allowed and there can only be a general discussion in respect of the Bill. The Bill is either passed or rejected. Thus is completed the third Reading of the Bill. After being thus passed by one House it is transmitted to the other House, wherein again it has to pass through the foregoing stages. When it is passed by both the Houses in the same form, it is sent to the President for his assent.

Financial Procedure. The preparation of Revenue Estimates for the year is also the responsibility of the Finance Ministry. As a matter of fact the important collecting agencies are located in the Ministry itself. These include the Income-Tax Department, the Central Excise Department and the Customs Department. On the basis of statistics for the past years they are able to forecast what the revenue for the coming financial year will be and how an increase or decrease in the rate of assessment would affect the total intake. In the light of a likely increase or decrease in expenditure, the Finance Ministry prepares proposals for variations in taxes. These proposals for variations are placed as Bill before Parliament and have to be kept secret till the day of presentation. The Annual Financial Statement, the Demands for Grants, and the Tax Bills are placed before the Lok Sabha by the Finance Minister on the

day he presents his 'Budget' and makes the Budget Speech.

By practice the budget is presented to the Lok Sabha on the last working day of February. On the same day the Finance Minister also introduces the Finance Bill to give effect to the financial proposals contained in his speech. Parliament gets about two months to consider both the demands for Grants and the Finance Bill. But before the close of the financial year on 31 March, a Vote on Account is passed which is approximately for 1/12 of the total estimated expenditure. Normally, the Vote on Account is passed without discussion. Unlike the practice in UK, the budget, although it is presented to the Lok Sabha, is simultaneously laid on the Table of the Rajya Sabha. Except delaying a Bill by 14 days, Rajya Sabha has no other power over a Money Bill. For the first time in July 1977, the Rajya Sabha (having a majority of Congress members) made four recommendations for changes in the budget of the Janata Government ; but none of them was accepted by the Lok Sabha. Although Parliament, in actual practice Lok Sabha, is all-powerful even in the financial sphere, yet in keeping with the British practice, the power of proposing expenditure and imposing taxes has been reserved for the Ministers, while the House has the power only to reduce or reject a tax or grant. In other words, no grant can be proposed unless a Minister demands it, and no tax can be imposed unless the Ministry initiates it. Thus the full responsibility for the national revenue and expenditure is that of the executive. The presentation of the budget to Parliament is accompanied by the speech of the Finance Minister. In it he reviews the general financial position of the government, makes indications about the economic policy of the government, and in a very general way defends the new tax proposals. The Finance Minister also gives figures of actual expenditure for the previous financial year and gives revised Estimates for the current financial year. He introduces the Finance Bill immediately after his speech.

The Rules of the House provide that no discussion of the budget shall take place on the day on which it is presented. A little later a general discussion of the Budget speech and proposals takes place for 2-3 days in both Houses of Parliament. The date for the Budget and the number of days to be allotted for its discussion are fixed by the Speaker of the Lower House and Chairman of the Upper House in their discretion ; but, in practice, such arrangements are made in consultation with the Leader of the House. In order that the largest number of members may participate in discus-

sion, the Speaker generally fixes a time limit, 15 minutes being the maximum for each speaker. At the end of the debate the Finance Minister has a general right of reply and he is given an hour for the purpose.

The next stage in the discussion of the Budget is the Voting of the Demands, which takes 8 to 12 days. The discussion on Demands for Grants is taken up Ministry-wise. A period is allotted to each Ministry by the Speaker, in consultation with the Leader of the House. All Ministries are put down for discussion; and each Ministry circulates to members a report on the working of that Ministry. At the end of the debate the Minister replies to the criticisms made during the discussion. When a demand for grant is moved, amendments to the motion may be of 3 kinds, which are technically called 'cut motions'. First, a token cut is usually moved in the form 'that the Demand be reduced by Rs. 100'. Its intention is to raise discussion on the policy underlying the demand. The second is an economy cut, the purpose of such an amendment is to reduce the grant or an item of the grant by a specific amount. The third is refusal of supplies cut; such a cut motion provides an opportunity for the discussion of alleged mismanagement or bad organisation and is in the form 'that the whole Demand be reduced to Re. 1.' No amendments to cut motions are permissible. When the time allowed by the Speaker for considering the demands is exhausted, a guillotine is applied. It means that all the grants that have not been so far passed by the House are put to vote one by one. After this the Appropriation Bill, in which all the Demands for Grants are separately given, is introduced in the Lok Sabha. The Appropriation Act provides the legal authority for the withdrawal of money out of the consolidated fund. The number of days on which the Budget proposals may be considered by the House is not laid down; but the Speaker is empowered to allot as many days as he thinks may be compatible with the public interest for the various stages.

Other notable points are : (i) *Provisional Collection of Taxes*. Since the Provisional Collection of Taxes Act authorises provisional collection of taxes for a period of only 60 days from the date of introduction of the Finance Bill, so it must be passed in both Houses and be assented to by the President before the end of April. (ii) *Supplementary Estimates*. Many departments may require more funds than had been estimated previously for the current budget. Whatever additional amounts the departments require are put

together before the House in the form of **Supplementary Estimates**. In general, for their consideration the same procedure is followed as for the annual grants. But they must be passed before the close of the Financial year to which they relate. (iii) *An Excess Grant*. It is made when a department spends more than the amount provided for any item in the regular budget and has failed to obtain a supplementary grant. Money may be spent from the Contingency Fund or even from the Consolidated Fund, because a proper system of exchequer control does not exist in India. (iv) *Vote on the Credit*. Sometimes for national emergencies as those arising from war, etc., the Government may require funds for which it may not be able to give a detailed justification immediately. The House may grant these moneys by passing 'a vote on credit'. An exceptional or a special grant is also like 'a vote on Credit.' (v) *Token Grants*. When funds to meet proposed expenditure on a 'new service' can be made available a demand for the grant of a token amount is submitted to the vote of Parliament and, if Parliament assents to the demand, funds may be made available by reappropriation.

Like the procedure relating to voting of expenditure the voting of taxes follows more or less British pattern, except that there is no Committee of Ways and Means in the United Kingdom. As in the case of expenditure, the Legislature is competent to reduce taxes proposed by the Government or to refuse to assent to them but cannot increase them. There is one difference, however, in regard to demands for expenditure the exercise of the theoretical power of the Legislature to reduce or refuse a demand may lead to a down-fall of the Ministry and is, therefore, never allowed in practice and the estimates are passed without any reduction.

Conclusion. Parliament in India can legitimately claim credit for pioneering work at least in two important directions : (a) Conduct of Business according to a precise time-table, and (b) the follow-up of the assurances on undertakings given on the floor of the House. The allotment of time to the different items of business that are to come up before the house on the recommendations of a Business Advisory Committee has imparted a predictability in the Parliamentary time-table. The Committee allocates time to the various bills and other business which Government bring before the House from time to time. Like the Business Advisory Committee, the Committee on Government Assurances in the Lok Sabha is also an essentially Indian innovation. 'Calling Attention notice' is another notable Indian procedural innovation. It enables a member to draw

the attention of the Government to sudden developments of urgent public importance and to elicit their stand thereon. Such a notice can be admitted by the Speaker in his discretion irrespective of the wishes of the Government. Further, under the Rules a matter of urgent public importance can be discussed for a short time, not exceeding two-and-a-half hours in duration, provided the opposition and the Government agree to find time. There is provision also in the Rules for a member who wishes to bring to the notice of the House any matter which is not a point of order, to do so after giving due notice and with the consent of the Speaker.

The Committee on Petitions may not be an institution exclusive to India but the scope of functions of this Committee in Lok Sabha is something unique. The Committee receives petitions not only on Government Bills but also on matters of general public interest not falling within the cognizance of any court of law, tribunal, quasi-judicial body or a Commission.' and for which no remedy is available under the law. The financial committees particularly, and other committees like the Petitions Committee, do not rest content with making their reports to the House but follow it up and present further what are called "Action Taken" reports to the House. 'The practice and procedure of the Indian Parliament has thus been evolving all the time as much as a result of the compulsions of the developing situations as through a conscious, continuous search for more adequate methods of work for the better fulfilment of its growing tasks. Ours has been a pragmatic approach. While our procedures have all along been anchored in the universal fundamentals of Parliamentary procedure, we have not shied away from making adjustments and innovations, as necessary, as we proceeded along. And, the process continues'.¹

IV. Committees Of Parliament

Importance of Committee System. '...the committee system is the surest way for getting work done in the most efficient manner, because it envisages in the words of Walter Bagehot: "a due mixture of special and non-special minds which attend to the means and the end". The experts are government officers who supply the information to be placed before the committee and the lay persons are the members who judge whether the policy adopted by the government would yield the desired results or not. 'More than England the USA and France have had recourse to the committee system from the beginning of the history of their popular govern-

¹S.L. Shakdhar, *op. cit.*, pp. 26-30

ment. In the USA it was a necessity, for under the presidential system the ministers are not responsible to the legislature'. All departments of the 'US administration have their own particular committees to which bills and policies of government are submitted for detailed examination. The Congressional system of committees does more than contribute to the efficiency and capacity for work of the members. It has a long-range effect of creating groups of experts in the various fields that are of a particular concern to the government' ¹

Parliamentary Committees in India. The Indian Parliament has devised a well-knit committee system. Committees are appointed or elected by the respective Houses following a motion made to that effect, or nominated by their presiding officers. These committees fall under three groups : those of a general nature concerned mainly with the organisation and powers of the House ; those assisting the Houses in their legislative functions ; and those which act as Parliament's 'watch dogs' over the executive. In the first category fall the Committees on Rules, Privileges, Absence of Members, the Business Advisory Committee, etc. The legislative committees include Select Committees of either House and joint Select Committees of two House, set up on *ad hoc* bases for the consideration of important bills. The "watch dog" committees are the Committee on Subordinate Legislation, the Committee on Government Assurances, the Public Accounts Committee, the Estimates Committee and the Committee on Public Undertakings. The last three of these committees play an important role in exercising a check over governmental expenditure.

'The "watch dog" committees are able to achieve results, which an individual member may not perhaps be able to obtain. For instance, the Committee on Government Assurances takes upon itself to pursue with the government the question of implementation of the various assurances given by the ministers on the floor of the House. The growing volume of delegated legislation, the enormous volume of estimates and expenditure, the large number of possible executive lapses in various matters and fields, cannot be effectively controlled by Parliament on the floor through traditional methods. Therefore, it has endeavoured to find more effective and more systematic forms and methods of control over administration through its various standing and *ad hoc* committees. The Committee

¹M. Ruthnaswamy, 'Extension of the Committee System in Indian Legislatures', I.C.P.S., Jan.-March 1973, p. 50.

on Subordinate Legislation is there to check delegated legislation, the Committees on Public Accounts and Estimates are there to exercise proper control over expenditure and to effect economy and the Committee on Public Undertakings is there to examine whether the public undertakings are being run efficiently and managed in accordance with sound business principles.¹

There are also standing committees and *ad hoc* committees. The standing committees are those committees which are appointed by the Speaker/Chairman in pursuance of the rules of procedure of the concerned House and continue to remain in office irrespective of the completion of their business. There is some sort of a little permanence in their tenure. They deal with specific business. The standing committees are of the following categories : (1) committees to enquire like Committee on Privileges and Committee on Petition; (2) committees to advise like Business Advisory Committee, Committee on Private Members' Bills and Resolutions, Rules Committee and Committee on Absence of Members from the Sitzings of the House ; (3) House keeping committees like Library Committee, joint committee on Salaries and Allowances of Members ; and (4) committees to scrutinise and control, e.g. Committee on Government Assurances

Financial Committees. The Estimates Committee, the Public Accounts Committee and the Committee on Public Undertakings are the three most important committees of the Parliament. All these committees are formed mainly on the United Kingdom model. The Comptroller and Auditor-General submits the audit reports, which are the primary bases of investigation by the Public Accounts Committee. Since 1967, Indian Parliament has started the tradition of having a leader of opposition as the chairman of this Committee who is nominated by the Speaker of the Lok Sabha. The members elected from the Lok Sabha (15) and the Rajya Sabha (7) are re-elected every year. As regards the Estimates Committee consisting of 30 members of the Lok Sabha the committee itself chooses the subjects or ministries to be examined in a particular year. The committee is assisted by the secretariat staff of the Lok Sabha in the collection of preliminary materials, in the on-the-spot study, in framing questions for examination of the departmental heads, in the final preparation of the report and in supervising the implementation of the recommendations of the report of the Estimates Committee.

¹Buta Singh, *Committees in Parliamentary Democracy*, ibid., pp. 43-4.

'As R.R. Morarka, a former Chairman of the P.A.C., said the appropriation accounts of the government and the audit reports thereon of the Comptroller and Auditor-General of India are mostly the basis of the scrutiny by the Committee. Cases involving excess expenditure over what has been voted by Parliament receive the special attention of the Committee which, after reference to the facts of each case, makes suitable recommendations. An idea of the volume of work done by the P.A.C. becomes evident when it is realised that during the tenure of the Third Lok Sabha over 66 reports were presented to Parliament. The importance to the nation of the work done by the P.A.C. has increased because of the vast growth in expenditure by governmental departments necessitating effective control by Parliament. The examination of the financial accounts of the Government of India and the audit report on revenue receipts has also come within the purview of the P.A.C. In some of its reports, the P.A.C. has come down heavily on the executive for the way the tax laws have been administered. It was found that on occasions different officers gave different interpretations of the same tax, with the result that citizens were being taxed differently under the same statute. A vigilant Public Accounts Committee can effectively protect the interests of the tax payers and at the same time bring to the notice of Parliament the various lapses at different levels.'

An important development since Independence is the growth of the public sector in pursuance of the objective to usher in socialist pattern of society. There are now hundreds of statutory corporations and government companies covering a wide range of industrial and other economic activity. The public undertakings are autonomous but funds for them are received from the Consolidated Fund of India. Their day-to-day functioning is not the direct responsibility of the minister concerned. Parliamentary control, too, is remote and is not as continuous as it is in the case of a ministry or government department. It was for this reason thought necessary that a device should be evolved for Parliament to keep an effective watch over the public sector projects. The result was the constitution of the Committee on Public Undertakings in 1964 with 15 members—ten from the Lok Sabha and five from the Rajya Sabha.¹ It examines : (i) the reports and accounts of the public undertakings ; (ii) the reports, if any, of the C & AG on the public undertakings ; and (iii) in the context of the autonomy and efficiency of the public

¹M. Pattabhiram, *Parliamentary Committees Ensure Success of Democracy*, *ibid.*, 38-42.

undertakings whether their affairs are being managed in accordance with sound business principles and prudent commercial practices.

Other Notable Committees. *The Rules Committee* considers matters pertaining to the procedure and conduct of business in the House, and recommends amendments or additions to the Rules of Procedure and Conduct of Business. It has 15 members and is constituted annually. *The Business Advisory Committee* also consists of 15 members taken from all groups and parties nominated by the Speaker. It makes in consultation with the Leader of the House, the time-table of the House, and makes allocation of time for bills and other Government business. *The Committee on Private Members' Bills and Resolutions* examines all private members' bills after they are introduced and classifies them in two categories A and B ; and recommends the time to be allotted to them. *The Committee on Subordinate Legislation* was first constituted in 1951, for examining delegated legislation with a view to bring "to the notice of Parliament whether the delegated legislation has exceeded the original intention of Parliament, or has departed from it, or has affected any fundamental principle." It consists of not more than 15 members. All cases of abuse of delegation and attempts to do some such things which should be done by Parliament itself are brought by the committee to the notice of the House in its periodic reports.

The Committee on Government Assurances is an Indian innovation in parliamentary procedure. It scrutinises the assurances, promises and undertakings etc. given by ministers from time to time on the floor of the House and reports the "extent to which such assurances have been implemented in the minimum time necessary for the purpose." The chairman of the committee is usually a leading member of the opposition and the Minister of Parliamentary Affairs acts as the spokesman of the Government.

Critical Suggestions. We have in Parliament what is called a system of consultative committees. These consultative committees now function better than before mainly because they are now allowed to meet during off-sessions and members are allowed to draw their T.A. and D.A. As regards the scope of the committees, I feel that no government activity should be outside the jurisdiction of the one Parliamentary committee or the other. And in that connection, the first institution which has remained outside the Parliamentary jurisdiction is the Reserve Bank of India—the currency authority of this country. 'The committee system thus

requires reform in both directions, intensively and extensively. We must also appoint new committees to undertake new responsibilities and new areas of scrutiny...In America there is the convention of a staff director, who keeps liaison between the chairman of a committee at the one end and the Government officers on the other. He arranges all the house-keeping work and more than that exercises a very sobering influence on the committee members. He is in the full know of it. He is, so to say, an expert and guides and helps committee members if they are inclined to go wrong on any points. The only way to reduce the dominance of bureaucracy over the legislature and to make them co-operate with and develop respect for the legislature and its committees is to develop an expertise within the committees themselves and that we can have only with the assistance of experts'.¹

An all-party standing committee of both Houses would emancipate the bulk of the legislative process from the incubus of partisan strife. Perhaps the existing Law Commission which has been a victim of neglect and indifference on the part of both the executive and the legislature could then send its reports to the joint committee on legislation which would examine them and press for their implementation.²

Another aspect of committee work is that in the present set-up, committees of the House have to deal with very technical subjects which require special investigation. The members of a House of legislature are not experts in any field though they have experience of public life. Nor are the members of the staff of a House of legislature well-versed in any technical field though they are quite experienced in the technicalities of parliamentary procedures. 'Therefore, it is necessary for every committee dealing with technical subjects to have assistance of technical personnel during its investigations. Accommodation for committees and their staff is also necessary. Sometimes committee work is obstructed by want of room for the additional staff required for the committees and they have to meet in crowded rooms or have to meet for shorter times because some other committees are also to meet on the same day. This interrupts the working of committee and tells upon the

¹R.R. Morarka's View in the Seminar, '*Committees in Indian Parliamentary System*,' Seminar Discussion, p. 63.

²L.M. Singhvi, '*Key Role of Standing Committees Agenda for Reform*', *Ibid.*, p. 7.

efficiency of the staff.¹

V. Powers and Functions of Parliaments

General. The Constitution has not stated in clear terms the power and functions of Parliament; but from a careful perusal of various provisions of the Constitution, we can say that the functions of Parliament under the Constitution are as under : (1) It can make laws on the subjects specified in the Constitution. It can also make laws on the subjects which are residuary subjects, i.e. which are not allocated to States and which are not covered by the specified subjects allocated to Parliament (2) It has exclusive power to vote expenditure for the Union Government, which cannot spend anything, not even a rupee, unless it is voted by the Lok Sabha. (3) It has power to oversee administration. (4) It possesses political power, i.e. it can dismiss a Ministry on a vote of no-confidence. This can be done by the popularly elected House, i.e. the Lok Sabha only.

The legislative power of Parliament extends to (a) all the subjects included in the Union List ; and (b) all the subjects included in the Concurrent List for all the States of the Union and Union Territories. During the proclamation of a national emergency as well as in case of failure of constitutional machinery in any State, Parliament is authorised to exercise legislative power for all the States or the State (as the case may be) on almost all the subjects, including those contained in the State List. For the administration of Union Territories, it enacts all the necessary laws, as they have not been granted any autonomy by the Constitution. Parliament's legislative powers, subject to the provisions of the Constitution, further extend to these subjects : (i) alterations in the territorial boundaries of the State (and Union Territories), (ii) citizenship (iii) amendment of the constitution, including the fundamental rights ; (iv) implementation of directive principles of State policy, (v) salaries of the President, Vice-President, ministers and other high officials ; (vi) creation of new courts and enlargement of the jurisdiction of the Supreme Court, High Courts, etc. : (vii) abolition and creation of second chambers in the states : (viii) all India services, (ix) elections, (x) public service and other commissions, (xi) language of the Union, (xii) Lok Pal, etc. We would now discuss the powers and functions of Parliament under the following

¹Virendra Swaroop '*Staffing the Committees*', *Ibid.*, pp. 28-9.

headings :

Policy Formulation. 'While the policy is in the stage of formulation, it is the government (executive) alone which considers it and gives it concrete shape. Parliament comes into the picture only after the proposal is placed before the Parliament for approval. Government has completely a free hand to implement the policy and Parliament has no right of inspection of the administration, which is responsible for carrying out the executive tasks assigned to them....Broadly speaking, the Executive has vast freedom in shaping policies and taking steps to implement those policies, and Parliament has the unlimited power to call for information and to verify *expostfacto* that the government and the administration have acted in conformity with their obligations and utilized the powers conferred upon them for the purposes for which they were intended. The administrative apparatus helps the Council of Ministers in the formulation of their policies, which are ultimately approved by Parliament. In fact before any proposal of government is placed before Parliament, it may have been suggested, examined or modified by the administrative machinery, which is under the control of the Council of Ministers.

Parliamentary Supervision and Control Over Administration. The Lok Sabha's main procedures comprise discussion on the address of the President ; putting of questions ; raising half-hour discussion ; consideration of Bills ; discussions and resolutions, motions on matters of general public importance : motion of no-confidence in the Council of Ministers ; motion of censure and motion for adjournment ; and notices calling attention to matters of urgent public importance. They also provide for the discussion and consideration and passage of the Appropriation (Vote on Account) Bill, demands for grants—annual, supplementary and excess—the Appropriation Bill and the Finance Bill.

There is also provision for the consideration of rules and regulations made in pursuance of the parliamentary statutes, though the Government is required to find time for discussion only on those measures which, according to the enabling statute, are modifiable by Parliament. There is also a procedure of statement under which ministers give the Houses information on matters of public importance. In order to keep the proceedings in conformity with the constitution and the rules of the House, there is provision for raising a point of order. In addition to these, the Government established by its orders the Planning Commission, the Central Vigilance

Commission, the Informal Consultative Committees, etc. Reports of the former two bodies provide Parliament with information concerning Government's development programmes and its activities for maintaining integrity in its officials, and on their basis the Houses consider these and other related matters. The Informal Consultative Committee consider various matters within the purview of the departments with which they are attached.

Relative Powers of the Two Houses. As already discussed in the third section, the Rajya Sabha has no power in respect of Money Bills ; it can only make certain recommendations which the other House may or may not accept. As regards other Bills, the Rajya Sabha has the power of making amendments in them. But if the amendments made by it are not accepted by the Lok Sabha, the Constitution provides for decision to be taken in a joint sitting of the two Houses ; but even in such a case the will of the popular House prevails, because it has more than double the strength of the Upper House. For example, in December 1977, during the Janata regime, the Rajya Sabha with a majority of Congress members rejected an official Bill seeking to repeal the Banking Service Commission Act, 1975. But it did not matter, because its rejection merely amounted to demonstration of its strength. It may be noted that there is nothing in either the Constitution or the Rules which expressly forbids the upper House to move a vote of no-confidence; but will not be given effect to, if passed.

But the Rajya Sabha has three special powers. First, article 249 of the Indian Constitution provides that the Council of States alone would have the competence to confer on the Parliament the right to legislate on the subjects of the State List. By a two-thirds vote, it can determine that a particular subject mentioned in the State List, will no longer be excluded from the legislative jurisdiction of the Parliament and confer upon it the right to legislate on it for one year. Secondly, by a two-thirds vote, the Council alone approves an extension in the range of an All-India-Services. Thirdly, during emergencies, the Council of State remains the only hope for the safety and survival of democracy. This is an important power vested in the Council of States, which not only makes it in a way the custodian of the Constitution but also the consciencekeeper of the nation.¹

Control Over Finance. In financial matters the constitution

¹Bhawani Singh, *pp. cit.*, p. 108.

vests the initiative in the executive. The President causes the annual financial statement of the estimated receipts and expenditures of the Government of India, commonly known as 'budget', and in case of need, also supplementary statements, to be presented before both the Houses of Parliament. All demands for grants and taxation proposals have to be approved by the Lok Sabha. Further, the Lok Sabha can discuss some resolutions of financial implication and secure assurances during the discussions. The well-known enquiry into the LIC Mundhra deal was secured by the Lok Sabha through discussion on a motion. A few assurances have also been secured by the House during other discussions under this procedure. General discussion on the budget is generally confined to questions of the principles involved, general examination of its general scheme, including consideration of revenue and taxation proposals. Occasionally, specific points relating to both expenditure and taxation are raised and assurances are sometimes also secured.

The functions of the Public Accounts Committee and the Estimates Committee have already been discussed. The third important committee in this sphere is on public undertakings. Besides the committee, the various means through which parliamentary control can be exercised over public undertakings are : (i) passing of the statute which sets up an enterprise ; (ii) power of amending the statute ; (iii) special safeguards provided in the statute, such as the creation of consultative, advisory or co-ordinating committees ; (iv) appropriations---the original or supplementary grants for capital or revenue purpose ; (v) the yearly reports of the working of the authority ; (vi) annual statement of accounts and its reports ; (vii) reports of any special or select committee appointed for any specific purpose ; and (viii) questions.

VI. Parliament's Performance and Suggestions for Improvement

PARLIAMENT'S PERFORMANCE

We propose to discuss it with the help of comments and critical observations as follows :

An Adverse Comment. Indian Parliament's contribution in regard to policy making in the sphere of science and technology has been "woefully meagre". This is perhaps due to a high degree of 'politicisation' of parliamentary work in India. Besides, there is a relative lack of awareness of major scientific issues on the part of

the M.P.s. The relevance of this point lies in the recognition of the situation that, although India has all the organisational set-up for science that has been developed in any other advanced country, yet it has not been found possible to bring about "proper interaction" between science and Parliament. There exists a committee since 1961, called "Indian Parliamentary and Scientific Committee" (its membership is open to members of both Houses and to other scientific and technological organisations) but its working is limited in the sense that it cannot raise issues as an authoritative body of the Parliament. It may appear as if the parliamentary machine is becoming out of gear with the contemporary realities. This is because, apart from the perpetual problem of time, it is generally felt that major decisions of government policy are taken after consultations held outside the Parliament, with representative but non-accountable interests, such as Federation of Indian Chamber of Commerce and Industry or the party machines and when the government presents legislative measures to the House, equipped with the authority of the party whip, it is usually less inclined to accept any serious amendment to its proposals.

'There seems nothing wrong with what the government does by taking its decision (reached in principle, before it faces Lok Sabha with a particular measure of legislation after widest possible consultation both outside Parliament as well as inside it). But there is considerable substance in the argument that once when it is accepted that the government derives its authority straight from the House, it follows that the House should be, *prima facie*, in the strongest possible position to place adequate checks on the executive. When it appears to the House that in actual practice it does not find it easy to do so, then the weakness lies somewhere in the procedures rather than in the fundamental power-relation between the executive and the legislature under the parliamentary system.'¹ But its performance should be judged in the light of (a) the innumerable laws passed by it, covering almost all fields of national life ; (b) forty-four amendments of the Constitution adopted by it ; (c) enactments concerning the political structure of the country, measures of social reform as well as those aimed at the transformation of the economic system and the welfare of the people ; (d) level of debates and discussions held in the two Houses

¹Narindra S. Kapoor, 'Problems of Parliamentary Reform in India,' Political Science Review, (Raj. Uni.) July-Dec., 1970, pp. 326-27.

on countless occasions ; (e) resolutions and motions adopted for holding inquiries ; and (f) its impact on the working of the government.

Members' Contribution. 'The two Houses of Parliament reflect in miniature the Indian society as a whole. In the First Lok Sabha, stalwarts in the public service, eminent lawyers and people engaged in professions like agriculture and industry were largely elected. With each successive General Election, the prior occupational pattern of the membership became more broad-based. A new class of political and social workers has come to the forefront and is having an effective voice in moulding the parliamentary life. From the very beginning, the Indian Parliament has had an Opposition. The membership of the ruling party in the Lok Sabha also represents the same social spectrum from which the membership of the Opposition parties is drawn. Indian democracy so far has not, however, evolved a cohesive Opposition, which could present a serious threat to the party in power.'

Whether they entered the Houses of Parliament as members of the ruling party or of Opposition groups or functioned as independent members, a large number of the members made their impact felt on the parliamentary scene. The first 17 years of the parliamentary scene were dominated by Jawaharlal Nehru, the first Prime Minister, who spoke at length on a wide range of subjects, particularly on planning, science and technology, and external affairs. The next Prime Minister, Lal Bahadur Shastri, is particularly remembered for the inspiring speeches he made on the occasion of the Indo-Pak war of 1965. Shrimati Indira Gandhi succeeded Lal Bahadur Shastri as Prime Minister and has been the centre of attention in the Parliament as one who truly reflects the urges and feelings of the masses.¹

Impact of Parliament in Certain Cases. Timely parliamentary intervention in significant instances helped to persuade the Government to modify or desist from measures which proved to be particularly unpopular with the public. The decision of the Government with regard to Gold Control and the introduction of the Compulsory Deposit Scheme, did not find favour with the people in general and public opinion was reflected in the debates that took place in Parliament on these subjects. Subsequently, Parliament took a lead in the Bangladesh crisis. On 29 March 1971 a member of Lok Sabha

¹S. L. Shakdhar, *op. cit.*, pp. 21-2.

supported by several others urged in the Lok Sabha that the supreme representative body of the country should "go on record" expressing its solidarity with Bangladesh. A resolution expressing the House's "deep anguish and grave concern" at the developments in Bangladesh was accordingly moved by the Prime Minister; the same was unanimously adopted by the House on 31 March 1971. Likewise, though Parliament has no power to ratify appointment of ambassadors, an appointment could be a subject of debate. For instance, in May 1966, a member during a discussion in the Rajya Sabha on a statement made by the Minister of Finance regarding the adverse remarks made by the Public Accounts Committee against a former Secretary to the Government sought an assurance from the Minister that the said officer, who was at that time a Secretary, Ministry of Finance and was, according to the member's information, going to be appointed as ambassador of the country to the European Common Market at Brussels would not be so appointed.

Parliament and Defence Matters On the three aspects of defence—policy, strategy and operations—Parliament could be concerned only with policy, very seldom with strategy and never with operations. There are three principal methods in vogue by which Parliament seeks to determine or influence policy and exercise control over defence : (1) The actual enactment of laws governing the armed forces, of which the most outstanding examples are the Army Act, the Navy Act and the Air Force Act. (2) Through the Parliamentary Financial Committees, which have so far presented a number of reports dealing with a variety of subjects concerning defence. (3) Recurrent method of control is through the sanction of the defence budget every year. The occasion is utilized for pronouncement as well as criticism of defence policy.

Inquiries. The case of the inquiry into steel deals in the Third Lok Sabha furnishes an apt illustration of the fact that when any serious executive lapse came to its notice Parliament has not rested until the matter has been fully gone into and appropriate action taken. In their Fiftieth Report on Export Promotion Scheme and Allied Matters, the Public Accounts Committee of the Third Lok Sabha had pointed out many lapses on the part of the Government departments as well as private firms. Later, on 2 August 1966, upon a formal motion from a member, the Lok Sabha directed the P.A.C. to consider the Government's reply to the Committee's observation and report back to the House within 21 days. The Committee stated that they saw no reason to modify their earlier observation that the

concerned Secretary simply acquiesced in the mistake of issuing Import Licences for more than a crore of rupees irregularly to a firm and that there was a positive failure on the part of the Department of Iron and Steel to inquire into these lapses.

The appointment of a Committee to enquire into the working of the CSIR particularly to go into irregularities in appointments and violations of rules in the issue of royalties and consultancy fees etc., the appointment of Industrial Licensing Committee to inquire into the Licensing system following demand by members for an impartial inquiry into the allegation that large industrial houses had secured undue advantages over other applicants, and the appointment of a Committee to examine the feasibility of holding sessions of Parliament in South India, are some examples of positive steps taken by the executive in response to parliamentary pressure.

Other Cases of Parliament's Influence. There have been occasions when parliamentary pressure, has directly or indirectly, compelled ministers to resign. The first of such cases after Independence was that of Finance Minister in August 1948. When considerable doubt was expressed in the Lok Sabha as to the legality of the Compulsory Deposit Scheme, members desired to have the opinion of the Attorney-General. A special motion to secure the presence in the House of the Attorney-General was made and adopted by Lok Sabha on 27 April 1963 ; and the Attorney-General appeared in the House two days later. The Constitution (Eighteenth Amendment) Bill 1964 introduced on 24 April 1964 sought to indemnify the actions of the officers in implementing Presidential orders under article 356 ; but on account of stiff opposition in the Lok Sabha, Government had to ultimately withdraw the Bill.

Private Members Legislation. In the field of legislation Private Members' Bills are regarded as an index of parliamentary initiative. A number of such Bills have been accepted by the Government and passed into law. A short list of the titles of these Bills would indicate the range covered ; the Muslim Wakfs Bill, 1952 ; the Code of Criminal Procedure (Amendment) Bill, 1953 ; the Women's and Children's Institutions Licensing Bill, 1954 ; the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Bill, 1954 ; the Indian Registration (Amendment) Bill, 1955 ; the Parliamentary Proceedings (Protection of Publication) Bill, 1956 ; the Hindu Marriage (Amendment) Bill, 1956 ; the Code of Criminal Procedure (Amendment)

Bill, 1957 ; the Orphanages and other Charitable Homes (Supervision and Control) Bill, 1959 ; the Marine Insurance Bill, 1959 : the Salaries and Allowances of Members of Parliament (Amendment) Bill, 1964 ; the Hindu Marriage (Amendment) Bill, 1963 ; the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1970 ; and the Indian Penal Code (Amendment) Bill, 1969. Some of these were introduced in the Rajya Sabha.

Defects in the Working of Parliament. Defects as pointed out by several critics may briefly be stated as : (1) Hiren Mukherjee, himself a parliamentarian, once remarked: "Parliament itself appeared some times a peculiar and even repellent kettle of fish and one could understand (Mrs. Gandhi's) reticence and even near-revulsion for it.., The most important reason for its poor performance is an undoubted decline in the quality and calibre of members. The ruling party members particularly the Youth Congress activists, rather than opposition stalwarts, have been needlessly barracking the proceedings almost every day.¹ It is often suggested that the basic cause of the malaise is a steady deterioration in the quality of the men elected to two Houses. It is true that agriculturists now account for nearly 40% of the total membership of the present Parliament.

(2) Members of Parliament who try to make their point by interrupting proceedings believe that they have a legitimate grievance. Often there are dramatic scenes and confrontations. Dramas are enacted in the functioning of Parliament. But this makes it more capable of dealing with the affairs of the nation in a constructive manner'. The relationship between the ruling party and the opposition should be in accordance with the maxim that the opposition must have its say and the government must have its way.¹

(3) There has been an increasing erosion of powers of the members of Parliament. For example, the Rajya Sabha Secretariat recently changed the very substance and purpose of a notice it received from some members. It is obvious that the greater the powers at the command of these secretariats, the more they try to maintain their autonomy. The privileges of members seem to have been eroded. Earlier in 1981, the opposition had to make some efforts to have the case of an alleged assault on a member by the Provincial Armed Constabulary in Ghaziabad referred to the privi-

¹Surinder S. Suri, *Decline of Indian Parliament*, Times of India, 3 Jan., 1981.

lege Committee. In the same way, a complaint was made by some members that their mail was being censored; but their plea that this was a breach of their privilege was rejected by the Speaker. The control exercised by parliamentary committees has loosened. Finally, there has admittedly been an increase in subordinate legislation, and a corresponding increase in the discretion exercised by various executive authorities.¹

Regarding the decline in the quality and talents of the members of Parliament, we would like to say that there is no justifiable reason for lamenting the fact that an increasing number is being drawn from the rural areas and the lower strata, because the process of democratisation of political leadership is bound to go ahead. In a sense, most of the members now more truly represent their electorates than was the case in the past. However, steps should be taken to equip them better for their parliamentary work. In this task political parties should play an important part by providing opportunities for their political education and training, by holding camps, seminars, etc. Institutions of higher learning—colleges and universities, particularly their teachers—can give much help in the organisation of such camps and seminars. They can also make available lot of useful and informative material for being studied and consulted by the members. It may also be added that library service by the two Houses of Parliament should be made more extensive and easily accessible.

(4) During the prime-ministership of Nehru and Smt. Gandhi, for most of the period, the ruling party has enjoyed so much support that the opposition parties, except shouting and denouncing the Government policies, could not do anything. A ray of hope was seen after the Congress split in 1969, when opposition parties joined hands and formed the Janata Party. During the period of Janata Government, the roles of the parties were changed, but the opposition faced almost the same situation. On account of one-party dominance, according to many critics, Parliament has been reduced to a debating club. The rigid party discipline, complexity of government business, delegated legislation and lack of proper orientation have limited the role of members.

(5) The attitude of Smt. Gandhi towards Parliament, according to Vajpayee, has been that of apathy. She has been very often absent from the important debates going on in the Parliament. The

¹Anil Nauriya, 'Erosion of Powers of MPs', Times of India, 14 Dec., 1981.

single most important factor that has contributed to the slump in the prestige [and influence of Parliament is Prime Minister Indira Gandhi's unconcealed disdain for Parliament. "Her attitude towards Parliament stands out in sharp contrast to that of her father. Pandit Nehru stayed away from the House only when it was unavoidable ; she attends Parliament only when she must. Pandit Nehru never missed any worthwhile debate ; Mrs. Gandhi remains conspicuously absent from important debates. The fact is that Pandit Nehru realised his responsibility as the leader of the House and functioned accordingly. But Mrs. Gandhi has failed to do so."¹

(6) The atmosphere in the Parliament, at times has been really depressing. For an average newspaper reader members of Parliament appear to be doing more shouting than talking. In recent days, a few MPs of Congress (I) have resorted to organised heckling and orchestrated shouting to calm down the opposition. This has brought the institution of Parliament to utter disrepute. Also the parliamentary language and decorum which are necessary decencies have been more honoured in the breach than in the observance. Walkouts, yellings and zero-hour babels have been quite common in the Parliament.

Suggestion For Improvement in the Working of Parliament. First, in every Parliament effective work is done not by the bulk of the membership but by a talented and a dedicated minority. Obviously, political parties alone can ensure that men with the capacity and will to keep the government on its toes are elected to either House. They can best do so by encouraging their members to specialise in chosen areas. Grooming of "shadow" ministers by the opposition parties, as at Westminster and funding of recognised political parties by the State to build a strong secretariat would be a great help.

Second, parliamentary work is a whole-time job, being performed by almost all members on a part-time basis. Since the end of the Second World War, West Germany, Australia and Canada have been providing free secretarial assistance to their elected representatives. Adequate emoluments, secretarial staff and other necessary facilities should be provided to members of Parliament.

Third, 'a well-thought-out decrease in Parliament's ceremonial and mainly 'confrontation' sessions and a large increase in commit-

¹A.B. Vajpayee: 'The Decline of Parliament', Indian Express, 6 Dec., 1981.

tee work, drawing in more actively and consistently the service and the talent of the members, plus the setting up of standing committees with real powers to supervise the working of every ministry should be provided early and with serious intent. This may conceivably stem the rot in the working of Parliament, unless we wish altogether to discard it as a derelict of history. It is better, in any case, not to lose hope in the historical process, however inadequate our present-day leadership seems to have shown itself.¹ We agree with the suggestion of having standing committees to cover almost all important departments of the Government. Their continuous and expert scrutiny would not by itself fundamentally alter the relation between the Government and Parliament. But it will give the Parliament a sharper and more modern weapon with which it can wield constitutional power that it enjoys undisputably.

Fourth, in order that parliamentary control over the Executive may be more effective and the administrative accountability may be more precise it is necessary that all policies laid down by Parliament should be stated in specific terms. At present government motions on policy matters are vague and too general. Parliament has never defined what our international policy is or should be. 'Parliament has debated it every session, expressed its views, but no resolution specifying in detail our relationship with other nations has been passed....No administration can be effectively called upon to account on this basis. It will always find an escape route in the speeches for what it has done or has failed to do. Similarly other government policies such as economic, defence, agricultural or food policies are so generally stated in the course of speeches that it requires a third party to state precisely what has been approved. Parliament should never encourage omnibus motion such as "such and such policy or situation be taken into consideration and having considered it, the policy of government in regard thereto is approved."²

Fifth, a strong, alert, competent and united opposition is *sine qua non* of a responsible parliamentary government. But in this country the opposition in Parliament has throughout been fragmented and weak. In the fourth Lok Sabha, the increase in its numerical strength gave it the capacity to hinder the working of the Houses, but not to get any substantial thing done. The efficiency of the Houses also did not increase. In the fifth Lok Sabha the

¹A.K. Mukhopadhyaya, *Society and Politics in Contemporary India*, p. 83.

²S.L. Shakdhar, *op. cit.*, pp. 199-200.

previous position came back in an accentuated way, and so did it in the sixth.

Sixth, the legislators must have faith in the primacy of moral values and ethical conduct in public life and promote civility and graciousness. They have to set an example and be the torch-bearers. On their part, the people at large should also come to recognise the value of self-discipline as a democratic virtue and necessity ; and they must endeavour to strengthen the national will for action and faith in themselves. 'It is a two-way traffic between the people and the elected representatives. They have to go hand-in-hand because it is not only at the election time that they are supposed to go and vote and then forget all about it. While the legislators must remain in constant touch with their electorate and the people at large, the latter also have an obligation and duty to have their eyes on their representatives' conduct and performance and to keep them straight.'¹

Finally, for increasing the overseeing capacity of the House, some procedural changes are also necessary. (i) The rules of the admissibility of questions should be enforced strictly. The number of questions a member can put on a day for oral answer should be restricted further. The copies of answers should be supplied to members beforehand, and the original questions and answers should not be read. (ii) All Bills, if so required by at least ten per-cent of total members, should be referred to a committee. A committee should also consider a draft Bill before its introduction. Before preparing any legislative draft, the Government should issue a white paper giving reasons for, and the salient features of, the measure. (iii) The scope and the purpose of the delegation of legislative power should be well-defined. (iv) A legislation on which the Government has no clear mandate from the people should be enacted by a special majority. (v) Resolutions and motions having the support of a certain number of members should be given priority. Adjournment motions should be admitted more liberally. (vi) Both the demands for grants and the Finance Bill should be referred to committees. (vii) To make the examination of audit reports more fruitful, audit should be made concurrent. (viii) The presiding officers must be completely insulated from party affiliation and made more independent of Government influence. The impartiality of the personnel of the secretariats of the Houses

¹Bal Ram Jakhar, *op. cit.* pp. 13-4.

should also be made beyond any doubt.

Role of the Rajya Sabha. On the basis of a special study several observations have been made ; the same are being stated here very briefly : (i) It is fully conscious of its executive power in respect of the entries in the State list and exercises this power with great care and discrimination. (ii) The feeling that its members are primarily the representatives of the States and hence they should act as the custodians of the rights of States is clearly marked. (iii) Often a blurring of party feelings becomes evident when members press their regional claims as well when they speak as members of the Rajya Sabha. (iv) Suggestions offered by private members continue to be neglected ; and the majority of private members' resolutions are rejected by the Government. (v) There had been a keen rivalry, bordering at times on enmity, between the two chambers.¹

¹Bhawani Singh, *op. cit.*, p. 251.

CHAPTER 8

State Executive

I. The Governor : Appointment etc.

Appointment. The Governor of a State is appointed by the President by warrant under his hand and seal.¹ No person is eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five. In a constituent State of U.S.A. the Governor is directly elected by the people and in Australia the Governor of a State is appointed by the Crown, on the advice of the Dominion Ministry. The Draft Constitution laid down two alternative procedures in this connection : (a) direct election by all the voters enjoying the right to vote for the State Legislative Assembly, or (b) appointment by the President from a panel of 4 candidates to be elected by the members of the State Legislature in accordance with the system of proportional representation by means of the single transferable vote. The first alternative would not have been a desirable substitute, because 'the co-existence of a Governor elected by the people and a Chief Minister responsible to the Legislature might lead to friction and consequent weakness in administration.' Moreover, it would have given rise to great popular excitement which might affect the quality of the person elected.

The second alternative would have been the best in the circumstances of our country for two reasons : first, the association of

¹Article 155. The Governor holds office during the pleasure of the President; but he may resign his office, by writing under his hand addressed to the President. Subject to the foregoing provisions, he holds office for a term of five years-Article 156. Being an appointee of the President, the Governor may be recalled by him in grave circumstances determined by the Union Government in consultation with the State Government.

two independent authorities—the President and the State Legislatures—in the process would have served as a mutual counterpoise to each other and was expected to secure the appointment of the best candidate ; second, in the nomination of the Governor, there is every chance of the appointment being dictated by partisan considerations, as the President in making the appointment is advised by the Union Executive, which is necessarily a party government. Then again being the nominee of the Union Government he may feel himself to be a sort of agent of the Centre particularly in cases of conflict of interests between the State and the Centre. Anyway, the fear that the nomination of the Governor by the President would be an indirect encroachment on the autonomy of the States is unfounded, because the Governor is only a nominal or constitutional head of a parliamentary government, any interference by him in the decisions and policies of ministers is clearly ruled out.

In connection with the appointment of the Governor a desirable convention has grown that the Union Cabinet before making its recommendation to the President consults the ministry of the State. Thus usually a person acceptable to the chosen leaders of the State is placed at the head. Another good practice adopted in this connection is that prominent and distinguished personalities of one State are appointed as Governors in other States and not in their own. The underlying idea of such an arrangement seems to be two-fold ; firstly, to give to the State a Governor who being an outsider will be in a position to take an objective view of things and tender advice to ministers without being materially affected by internal party politics. Such advice given by men of eminence and independence should prove valuable to any ministers. Secondly, the choice of a person belonging to one State to be the head of any other State does, by the very fact of such a free inter-change, emphasise the essential unity of the country in spite of its vast size and the heterogeneous character of its people.

Conditions of Service. The Governor holds office during the pleasure of the President and he may resign his office. Subject to these provisions a Governor is to hold office for a term of 5 years from the date on which he enters upon his office. But he is not to relinquish charge of his office, even when his term expires, until his successor enters upon his office. A Governor cannot be a member of any Legislature ; if he had been a member of any Legislature prior to his appointment as Governor, he is deemed to have vacated

his seat on the date on which he enters upon his office. Moreover, he cannot hold any other office of profit like the President, every Governor and every person discharging the functions of a Governor, before entering upon his office, makes and subscribes to the prescribed oath before the Chief Justice of the High Court, or in his absence before the senior-most judge of that Court. Since there is no provision for a deputy-Governor, 'the President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in the Constitution (Articles 158 and 159). Usually the Chief Justice of the High Court is made the acting Governor.

Emoluments. He is entitled without payment of rent to the use of his official residence and is also entitled to such emoluments, allowances and privileges as determined by Parliamentary law. Where the same person is appointed as Governor of two or more States, as in the case of Assam, Meghalaya, Nagaland etc. (vide Constitution Twenty-seventh Amendment Act, 1956), the emoluments and allowances payable to him are allocated among the States in such proportion as determined by Presidential order. In the absence of any Parliamentary law so far, a Governor is paid Rs. 5,500 per mensem as specified in the Second Schedule. The annual expenditure on the maintenance of his huge official residence (Raj Bhavan), including staff quarters and gardens, official railway saloons, aircraft, travelling and leave allowances and expenses on renewals and furnishings in the Raj Bhavan, is enormous. For example, the allowance for renewals and furnishings alone for the Government House at Madras and Ootacamund (in Tamil Nadu State) is Rs. 70,000/-. Besides, the Governor is also given substantial grants to keep up his style of living. The Governor of Maharashtra gets Rs. 5,00,000 for entertainment, maintenance of cars, staff and tour expenses. Further, the Governor (of Maharashtra) is allotted Rs. 6,50,000/- for spending on gardens, electricity and water.¹ Finally, no customs duties are levied on imported articles for personal use, wear or consumption by the Governor or any member of his family.

Immunities and Privileges. The Constitution has given the

¹The Governors (emoluments, allowances and privileges) Bill 1982 received Parliament's approval on 9 August. It replaces the existing Governors allowances and privileges order of 10 January 1950. It will enable refixation of ceilings on expenditure on Raj Bhawan keeping in view the reality of the present-day situation.

following immunities and privileges to the Governor as laid down in article 361 of the Constitution : (1) The Governor shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of powers and duties. (2) No criminal proceedings whatsoever shall be instituted or continued against the Governor of State, in any court during his term of office. (3) No process for the arrest or imprisonment of the Governor of a State shall issue from any court during his term of office. (4) No civil proceedings in which relief is claimed against the Governor of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as Governor of such State, until the expiration of two months after notice in writing has been delivered to the Governor.

II. The Governor : Powers and Functions

Powers. The *executive* power of the State is vested in the Governor, and is exercised by him either directly or through officers subordinate to him in accordance with the Constitution. The executive power of a State extends to the matters with respect to which the Legislature of the State has power to make laws.¹ The Governor appoints the Chief Minister and on his advice other Ministers. He also appoints chairman and members of the State Public Service Commission and the Advocate-General. He nominates some members of the Legislative Council in the State, where such a Council exists and he can also nominate a representative of the Anglo-Indian community to the Legislative Assembly, if he is satisfied that this community has failed to secure sufficient representation in the House. As the administrative head of the State he summons the sessions of the Legislature, prorogues the session and also dissolves the lower House at any time he thinks fit. He addresses the Legislature at the beginning of its session every year and also has the right to send messages to the Legislature.

The Governor is an *essential part of the Legislature*, because no Bill passed by it can become a law until and unless it is assented to by the Governor. He may give his assent, or withhold his assent to a Bill, other than a Money Bill or Financial Bill ; he may also

¹Articles 154 and 162.

return the Bill for the reconsideration by the Legislature in the light of any amendments recommended by him. Certain types of Bills are reserved by him for the signification of the President's assent. However, when a Bill is refused assent by the Governor or is returned by him to the Legislature for reconsideration, if it is again passed by the Legislature in its original or amended form, the Governor is bound to give his assent to it.

The Governor is also empowered to promulgate ordinances during the recess of the Legislature. But all such ordinances cease to operate at the expiration of six weeks from the re-assembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislature. It is further provided that the Governor shall not without instructions from the President promulgate any such ordinance (a) if a Bill containing the same provisions would have required the previous sanction of the President for its introduction into the Legislature ; or (b) if the Governor would have deemed it necessary to reserve a bill containing the same provisions for the consideration of the President ; and (c) or if an Act of the Legislature containing the same provisions would have been necessarily reserved for the consideration of the President.

In the *field of finance*, the Governor is required, in respect of every financial year, to cause to be laid before the Legislature the 'Annual Financial Statement' (Budget), showing the estimated receipts and expenditure of the state for the year. All demands for grants are placed before the Legislative Assembly on the recommendation of the Governor. He is also authorised to cause to be laid before the legislature any statement for supplementary demands. However, to money and financial bills, the Governor is not authorised to refuse his assent. The contingency fund of the State is at his disposal and he can make advances out of it to meet any unforeseen expenditure pending its authorisation by the State Legislature.

The Governor also has some *other powers*. He has the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends. He can decide matters relating to the appointments, postings and promotions of district judges and other judicial officers. The annual reports of various agencies, like the State Public Service Commission and Auditor-General are

submitted to him ; and he causes them to be placed before the Legislature for its consideration. During the period of an emergency, he acts as an agent of the President. His powers and functions in this capacity have been discussed in Section IV of this Chapter.

Governor's pardoning power became the subject of a judicial articulation in the Nanavati case. Nanavati, a naval officer was tried by the sessions judge of Greater Bombay for an offence of murder. A reference was made to the High Court, which sentenced the accused to imprisonment for life. At the relevant time the accused was in the naval custody : so the High Court directed, by issuing a writ to the sessions judge, to issue the warrant of arrest. But the arrest warrant was returned because the Governor had meanwhile by an order, under article 161, suspended the sentence till an appeal, if at all, filed by the accused was disposed of by the Supreme Court. Dealing with this embarrassing situation, the Court held that although the powers of the Governor under the said article were unfettered, they should not be exercised arbitrarily and except for good and sufficient reasons. Therefore, it may be noted that so long as a matter is *subjudice* or can become so, the possibility of a clash between the executive and the judiciary can best be avoided only if the Governor abstains from exercise of his power under article 161.¹

Functions. The formal functions of the Governor, as the constitutional head, include : the appointment and swearing-in of the ministers, summoning of the Legislature, address to the Legislative Assembly (or the joint sitting of a bicameral Legislature) at the commencement of a session, and giving assent to the bills passed by the Legislature. But there are certain other matters or circumstances in respect of which he is vested with rather limited discretion, namely : (i) reservation of bills for the consideration of the President (article 200) : (ii) return of a bill for reconsideration by the Legislature ; (iii) decision on a question of disqualification of a legislator (article 192 (1)) ; (iv) discharge of his statutory non-governmental functions, for example, functions entrusted to him as Chancellor of Universities ; (v) appointment of a Chief Minister ; (vi) making and unmaking of ministries in difficult situations ; (vii) dissolution of the Legislative Assembly in unusual circumstances ; (viii) report to the President, and making recommendation for the

¹M.C. J. Kagzi, *The Constitution of India*, p. 265.

President's rule¹ and (ix) in the nation-building schemes, the Governor is expected to play a vital role by providing non-partisan leadership. He is the only functionary to whom all parties and interests can look up for disinterested advice, distinguished service and impartial support.

III. Council of Ministers

There is a Council of Ministers with the Chief Minister at its head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under the Constitution required to exercise his functions or any of them in his discretion. If any question regarding such a matter arises, the decision of the Governor in his discretion is final, and the validity of anything done by the Governor cannot be called in question on the ground that he ought or ought not to have acted in his discretion.²

The Chief Minister is appointed by the Governor and other ministers are appointed by him on the advice of the Chief Minister. All the ministers hold office during the pleasure of the Governor;³ this, in actual practice, means that they ordinarily continue in office so long as they enjoy the confidence of the majority in the Legislative Assembly, because the Council of Ministers is collectively responsible to that House. Before a minister enters upon his office, the Governor administers to him the oaths of office and secrecy. A minister who for any period of six consecutive months is not a member of the State Legislature at the expiration of that period

¹*Ibid*, p. 266.

²The Governor of Assam alone seems to have certain special powers, because he acts as the agent of the President in respect of, and has a special responsibility for the administration of the hill regions of the State. He is concurrently the Governor of other states in the North-East region; and is immediately responsible for peace and order in the disturbed areas of these States. Under the 13th amendment he can even act in his individual judgment in certain matters. The Governor of Nagaland has also been entrusted with responsibilities to be discharged *vide* his discretionary powers in order to combat violent activities of hostile Nagas. The Governor of Punjab had, and of Andhra Pradesh has, special responsibilities in respect of the working of the Regional Committees (Hindi and Punjabi Regional Committees in Punjab and the Committee for Telangana Region in Andhra Pradesh).

³Proviso under article 164 (1) lays down: In the States of Bihar, Madhya Pradesh and Orissa, there shall be a minister, incharge of tribal welfare, who may in addition be in charge of the welfare, of the Scheduled Castes and the backward classes or any other work.

ceases to be a minister. The salaries and allowances of ministers are such as the State Legislature from time to time prescribes by law.

Under article 167 it is the duty of the Chief Minister of each State : (a) to communicate to the Governor all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation ; (b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for ; and (c) if the Governor so requires, to submit for the Council of Ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

Conduct of Government Business. All executive action is expressed to be taken in the name of the Governor. Orders and other instruments made and executed in the name of the Governor are authenticated in such manner as specified in rules made by the Governor, and the validity of any such order or instrument cannot be called in question. The Governor makes rules for the more convenient transaction of Government business, and for the allocation among ministers of the said business in so far as it is not business with respect to which the Governor is by or under the Constitution required to act in his discretion.¹

As in the case of the Union Council of Ministers, there is no limit fixed regarding the number of members in the Council of Ministers in a State. The size of the ministry depends on the size of the State, the total number of members in the State Legislature, the views and position of the Chief Minister in the Legislature party and some other factors which may not be defined. However, certain norms in this respect are necessary ; the recommendations of the Administrative Reforms Commission should be observed. In most of the States the practice of having a three-tier ministry is being observed ; i.e. Cabinet ministers, ministers of state and deputy ministers. Thus there is a distinction between the Cabinet and the ministry in the States as well.

The Chief Minister. The position of the Chief Minister in the Council of Ministers is analogous to that of the Prime Minister, in the affairs of the State. All other ministers are selected by him ; he may demand the resignation of any or all the ministers ; and in case of defiance by any minister, he can advise the Governor to

¹Article, 166.

dismiss such a minister. He can reorganise or reshuffle his ministry as and when he deems it necessary. If he tenders his resignation, all other ministers also go out of office. Being the leader of the majority party, he wields great influence in the deliberations of his party. He is usually the leader of the (popular) House, playing a vital role in the deliberations of the Legislature. Thus he provides leadership to the Legislative Assembly. He acts as the chief spokesman of the government and the ministry. He is the channel of communication between the Governor and his Council of Ministers. As such he communicates to the Governor all decisions of the Cabinet relating to administration and proposals for legislation. Appointments of many high officials are made on his recommendation by the Governor.

Powers and Functions. The main powers and functions of the Cabinet are : (1) determination of general policy ; (2) approval of legislative proposals (and ordinances) to be placed before the Legislature ; (3) formulation of the State Budget, including the preparation of supplementary demands for grants, whenever necessary ; (4) control and supervision over the general administration of the State ; (5) coordination of all important activities of the government ; and (6) approval of the State plans. It should be noted here that only the Cabinet meets as a body and holds deliberations on all important matters of the State. Ministers of State may be invited to the meetings of the Cabinet, whenever subjects relating to departments under their charge come up before the Cabinet for consideration and decision.

Functioning. All members of the Council of Ministers act in accordance with the principle of joint-responsibility. Although all important decisions are taken by the Council, all other ministers have to abide by them and support them in the Legislature as well as outside. All ministers sink or swim together. Even if a Cabinet minister might have opposed any particular decision, before being arrived at, after the decision has been taken, he must support the decision. The ministers are heads of various departments of the State Government. They formulate and finalise the administrative policy of their respective departments. They are political heads of their departments as distinguished from the *permanent* heads (senior civil servants) of departments, who are actually responsible for the execution of government policy and implementation of various programmes and projects of their departments. Each minister is accountable to the Chief Minister and the Council of Ministers for

all the decisions taken by him in respect of his department. He also owes individual responsibility to the Legislature (particularly the Legislative Assembly). For all failures of the department and acts of omission and commission done by the department, the minister is held responsible ; and as a result of severe criticism he may have to tender his resignation and in some cases may also be asked by the Chief Minister to resign. For all wrongs by the civil servants the minister concerned has to bear responsibility ; and as a matter of accepted practice he has to defend them instead of casting blame on them on the floor of the House,

Working of the State Cabinet is on the same lines as that of the Union Cabinet, discussed in chapter 6. The Cabinet meets usually once a week. The Chief Minister presides over its meetings. Decisions in the Cabinet are generally reached on the basis of majority opinion, without taking of votes. The Cabinet makes use of committees and subcommittees, if necessary. It is assisted in its work by the Chief Secretary and other officials. On all legal questions/matters the Cabinet seeks advice from the Advocate-General.

The Advocate-General for the State. The office of the Advocate-General in the State is similar to that of the Attorney-General of India in the Union. The Advocate-General of each State is appointed by the Governor, and the person so appointed should be qualified to be a judge of the High Court. He gives advice to the State in such legal matters as are referred to him and performs such other duties of a legal nature as may be entrusted to him from time to time. He is also required to discharge functions conferred upon him by the constitution or other law in force. He holds office during the pleasure of the Governor and receives remuneration fixed by him. He has the right of audience in all the courts of the State and also the right to take part in the proceedings of the Legislature and its committees, but he cannot vote in any House on any issue as he is not a regular member of the Legislature. A practice has grown that since he is appointed on the advice of the Chief Minister, the person so appointed resigns his office when the ministry, by which he was appointed, resigns. Thus his office is regarded as a political one.

IV. Failure Of Constitutional Machinery

Constitutional Provisions. The provisions to meet such a situation have been made in article 356 of the Constitution. If the President on receipt of a report from the Governor of a State or

otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution, the President may make proclamation, to that effect. As a result of that he may (a) assume to himself all or any of the function of the executive of the State or of any other authority except the High Court ; (b) declare that the powers of the Legislature shall be exercisable by or under the authority of Parliament ; and (c) make such incidental and consequential provisions as appear to the President necessary or desirable for giving effect to the objects of the proclamation.

“Breakdown of the constitution machinery” is of the widest import. It may mean anything from the actual collapse of the state administrative machinery to the struggle for preventing the opposition parties from forming a government. We would therefore like to have a glance at the various kinds of occasions when President’s rule was imposed as reflected by the Governors’ reports :

(a) *Breakdown of law and order.* (i) In July 1953, President’s rule was imposed in Kerala as there were violent protests/movements organised by Christians and Nairs. Processions, strikes and mass arrests became the order of the day and normal functioning of the Government became impossible. (ii) In November 1973, the Provincial Armed Constabulary revolted leading to a grave law and order problem in Uttar Pradesh.

(b) *Popular agitation against the ministry.* In 1967, in Rajasthan there was popular resistance to the formation of a Congress Ministry. (ii) In 1974, the duly constituted Congress ministry headed by Chimanbhai Patel was forced to vacate office by massive student agitation in Gujarat.

(c) *Corruption and mal-administration.* (i) On 31 January, 1976 the D.M.K Government in Tamil Nadu was taken over by the Union Government and President’s rule was promulgated in the State. The Governor was reported to have informed the centre that the DMK ministry had by series of acts of mal-administration, corruption and misuse of power for achieving partisan ends, set at naught all canons of justice and equity. Moreover, under the cover of the demand of state autonomy, the Governor was reported to have said, the DMK ministry had been encouraging secessionist activities.

(d) *When no ministry could be formed :* (i) In June 1951, the Punjab Chief Minister, heading a Congress ministry was defeated on a no-confidence motion in a meeting of the Congress Legislature

Party. Under a directive from the party High Command, he tendered his resignation. The Governor invited two prominent leaders of the rival group (in the majority party with a membership of 77 and only 7 members being in opposition), but they refused to form the Government. The Governor submitted these facts to the Union Government in his report to the President. Accordingly, the President issued the proclamation for placing the State under President's rule. (ii) In 1961, in Orissa when the Governor reported that no party was in a position to form a government.

(e) *Political instability as a result of defections* : (i) In Haryana in 1967, when a non-Congress coalition Government headed by Rao Birender Singh was in power. From the very beginning the ministry was suffering from the disease of defection, which culminated into the Central intervention. The Governor stated in his report : 'With such large-scale and frequent defections, it is impossible to find out whether the will of the majority in the legislature does really represent the will of the people'. (ii) In U.P. in February 1968 after the resignation of Charan Singh ministry. (iii) In Gujarat in March 1976 after the defeat of the Janata Front ministry headed by Babubhai Patel.

(f) *Paralysis of parliamentary process*. In West Bengal in February 1968 following the Governor's report (i) that the Speaker was not allowing the Assembly to function, despite High Court's judgment on the legality of Ghosh ministry. (ii) In U.P. on 2 October 1970 when Charan Singh refused to resign even after losing majority.

(g) *Others*. In August 1970 in Kerala when the Chief Minister still enjoying a majority support resigned and advised dissolution of the Assembly. (ii) In U.P. in 1973 and 1975, when President's rule was voluntarily courted. (iii) In the States of H.P., Punjab, Haryana, Rajasthan, U.P., Bihar, Orissa, West Bengal and M.P. in April 1977 on the ground that Lok Sabha elections held in March, 1977 had exposed the want of people's confidence in the Congress Party to which the State ministries belonged.

Comments on Suspension and Dissolution of Legislative Assemblies. 'The Assemblies have been suspended or dissolved keeping in view the interests of the ruling party at the Centre is also proved by the fact that whenever, a non-Congress government fell, the Assembly was ordinarily suspended if the Congress Party had a chance to form government, but on the other hand when a Congress government or a government supported by the Congress Party from

outside or a government in which Congress Party happened to be the largest partner fell, the Assembly was dissolved.' For example, the Assembly was suspended in U.P. in February 1968, in Bihar on 4 July 1969, in West Bengal in March 1970, and in U.P. in October 1970 when Charan Singh was dismissed under article 356, in Mysore and Orissa in 1971 when Virendra Patil and Singh Deo respectively resigned. The Assembly was also suspended in Gujarat in March 1976 when the Janata Front Ministry of Babubhai Jashbhai Patel resigned.

On the other hand, whether the Government of the Congress party or a Government supported by it from outside or a Government in which it was a major partner, fell or was about to fall, the Assemblies instead of being suspended were immediately dissolved either under article 174(2) as was in Travancore-Cochin in 1954, in Kerala in 1970, in West Bengal and Bihar in 1971 or under article 356, as in Andhra in November 1954, in West Bengal in 1968 and again in 1971. It should also be noted in this connection that whenever a recommendation for dissolution under article 174(2) (b) or under article 356 was made by a non-Congress outgoing Chief Minister or a non-Congress Chief Minister having a doubtful majority it was rejected in all the cases where the Congress party was keen to form the government, for example, the recommendations of Gurnam Singh in Punjab (1967) and of Charan Singh in U.P. (1968).

That Assemblies have also been put under suspension keeping in view the interests of the Congress party is also proved by the fact that there are instances where the Assemblies were suspended in order to maintain the unity of the Congress Legislature Party which was threatened by internal dissensions. This was done in Punjab in 1951, where on 11 June the Parliamentary Board had decided that the Chief Minister should resign and that in order to prevent internal conflicts in the Congress Party before the forthcoming general elections no Congress Government should function in the State. This was done in Andhra in 1973, and in U.P. in December 1975. Concealment of inefficiency and corruption of the Congress Government is another purpose for which the Assemblies have been suspended so that the change of leadership might be smooth and the new Government might have a fresh start. This happened in U.P. in 1973 and in Gujarat in 1974. The U.P. Government was quite inefficient and the P.A.C. revolt was its proof. In Gujarat the Assembly was suspended because there were

allegations of corruption against the ministry on account of which faction fighting was going in the party. 'This shows that dissolution and suspension of the Assembly under article 356 was always politically motivated in order to perpetuate the interests of Congress Party.'¹

There is one "peculiar" case of the implementation of article 356, when Punjab was bi-furcated into two States—Punjab and Haryana—it was thought prudent to clamp President's rule so that the process of bi-furcation could be completed smoothly. In certain States President's rule was imposed when the Chief Minister enjoyed majority support comfortably, the grounds were unjustified and the method was not only wrong but also absurd. In Andhra Pradesh in 1973, the Chief Minister in the wake of Telengana agitation was directed by the Congress High Command to resign to pave the way for President's rule. Similarly in Gujarat in 1974, in view of the tumultuous atmosphere and the untiring campaign by the students against a corrupt government, the Congress leadership advised the Chief Minister Chaiman Bhai Patel to resign. The Governor recommended the imposition of President's rule with the suspension of the Assembly.

In U.P. the Chief Minister, Charan Singh resigned on 17 February 1968, following a rift among the constituents of the S.V.D. and advised the Governor to dissolve the Assembly "in case the S.V.D. fails to elect its new leader". But the Governor said: "In his opinion such an extreme situation had not developed. Given a reasonable time, a reorientation of political affiliations might emerge in the State Assembly which might enable a stable government to be formed." 'Above all, article 365 has empowered the President to declare failure of the constitutional machinery in a State, in case the State Government does not comply with the directions of the Central Government. So far there has not been a single case of this sort since the Constitution came into being'.²

V. Governor's Role as Head of State Government

IN RELATION TO THE LEGISLATURE

Nomination and Removal of Disqualifications of Members. The

¹J.R. Sirvach, 'The President's Rule and the Politics of Suspendig and Dissolving the State Assemblies' J.C.P.S.J. Oct-Dec., 1977, pp. 45-52.

²M.S. Dahlya, *Office of the Governor in India*, pp. 272-83.

Governor is empowered to nominate certain members : (i) If he is of the opinion that the Anglo-Indian community needs representation in the Legislative Assembly and is not adequately represented therein; he nominates such number of members of that community as he considers appropriate. (ii) He nominates some members to the Legislative Council (wherever it exists) ; these persons should have special knowledge or practical experience in literature, science, art, cooperative movement and social service. The number of members nominated under this category in the various councils is given in the following Chapter.

The power of nomination has been misused by the Governors in many States. For instance, after the General Election in 1952, the Governor of Madras nominated C. Rajagopalachari to the Council simply to appoint him the Chief Minister. At that time, Rajendra Prasad, President of India wrote a letter to the Governor objecting to the nomination on the ground that he did not belong to the literary field. In Bihar, the Governor nominated B.P. Mandal to the Council on the advice of the stop-gap Chief Minister, in spite of the fact that the outgoing U F ministry had unanimously recommended not to nominate Mandal to the Council, as the latter did not have any qualification laid down in article 171. In 1962, S. Nijalingappa, after having been defeated at the poll, was brought to the Council through nomination. If any question arises as to whether a member of the Legislature has become subject to any of the qualifications (articles 191 and 192) the question is referred for the decision of the Governor and his decision is final. Before giving any decision on any such question, the Governor is to obtain the opinion of the Election Commission and act accordingly.

Summoning of the Legislature. The Governor has a discretion in the matter of summoning both Houses simultaneously or each House separately, as he is empowered to summon each House from "time to time". It was expected that the Governor would summon the Assembly on the advice of the Chief Minister. But the question arises : what should the Governor do when there are large-scale defections from the ruling party as was the case in West Bengal, Bihar, Haryana, etc., or when the coalition ministry breaks because of the internal dissensions? He may adopt any one of the courses : i) ask the Chief Minister to summon the Assembly immediately in order to prove that he still has a majority; ii) ignore such defections for the time being; iii) ask the Chief Minister to resign; iv) prorogue

the House if it is in session to enable the Chief Minister to consolidate his position; v) dissolve the House under article 174(2) (b) or get the House dissolved under article 365, to enable the Chief Minister to seek a fresh mandate of the people.

Prorogation of the Legislature. The Governor also has the power to prorogue the Legislative Assembly under article 172(2)(a). It may, however, be asked as to whether the Governor should exercise his individual judgment or he should always act on the advice of the Chief Minister. According to one view, the Governor should always act on the advice of the Chief Minister; but according to the other view, the Governor may, in exceptional circumstances, exercise his individual judgment. For instance, B. Gopala Reddy, the former Governor of U. P., and A.K. Sen the former Law Minister, Government of India, were of the opinion that the Governor should exercise his power on the advice of the Chief Minister. The Madras High Court also agreed with this view. But according to C.K. Daphtary, the former Attorney-General of India, "the power of the Governor to prorogue the House and to summon the House at a place and time which he thinks fit is an absolute power given under the Constitution."

However, to prorogue the Assembly in the middle of the session in order to save the ministry from being defeated on the floor of the House, seems to be constitutionally improper at least because the Governor should see that the executive has the continued and open support of the Assembly. While defending the dismissal of the ministry of Ajoy Mukherjee in West Bengal, Home Minister said that it was the duty of the Governor to bring the Executive and the Legislature face to face with each other.

Dissolution of the Assembly. The Governor has the power to dissolve the Legislative Assembly under article 174 (2) (b) of the Constitution. But we have to see how far the advice of the Chief Minister to dissolve the Legislative Assembly is binding on the Governor. When in July 1967, G.N. Singh along with 37 supporters defected from the Congress party and thereby reduced the ministry to a minority in the Assembly, the Chief Minister, after getting the session prorogued, declared that he would advise the Governor to dissolve the Assembly and then the Home Minister put forward the theory that "a defeated Chief Minister had the constitutional right to ask for a dissolution of the Legislature and the Governor had no discretion to refuse it."

The Governor has a discretion to dissolve the Assembly or not, on the recommendation of the Chief Minister. In case the Chief Minister has a solid majority in the Assembly and he advises the Governor for dissolution, the Governor should ordinarily accept his advice. But there is one exception to this rule; if the Chief Minister, without submitting his own resignation, advises the Governor to dissolve the Assembly, a few days before the beginning of the budget session, the Governor should have no alternative but to reject the advice because the acceptance of his advice would mean that the Ministry would stay in office till the elections are held, without getting the budget passed.

Governor's Address. The address of the Governor is ordinarily prepared by the Council of Ministers, but there are certain instances where the Governors have made unsuccessful attempts to prepare their own address. For example, V. Vishwanathan, the Governor of Kerala prepared his address, but the coalition Cabinet rejected the draft prepared by the Governor and insisted that the Governor should read the address prepared by the Cabinet which the Governor did. In the address of the Governor prepared by the United Front Ministry, which was dismissed earlier by the Governor, in November 1967, two paragraphs were included in which the role of the Governor in dismissing the United Front Ministry in 1967 and that of the Central Government for supporting the Governor on this issue was condemned. The Governor "asked the United Front Ministry to delete the portions critical of himself and the Centre from the address prepared by it for delivery by him at the joint session of the State Legislature." The Governor pointed out that the said portions did not constitute either a policy or an achievement of the United Front Ministry, and, therefore, they should be deleted but the United Front Ministry refused to do so and he was requested to deliver the speech as prepared by the Cabinet. To this advice the Governor did not agree and he informed the Chief Minister that he would not read the objectionable paragraphs of the address. When the Governor of West Bengal entered the Chamber to address the joint session, all the members of the United Front including the Chief Minister, kept sitting, which was an unprecedented show of disrespect to the Governor. A copy of the printed speech of the Governor, as prepared by the Ministry, was placed on Governor's table, but the Governor set aside the printed speech and asked for his own copy from the ADC and

read the address from it. While reading his address he omitted a portion of his draft containing 535 words.¹

Assent to Bills. Besides giving assent to bills or withholding assent therefrom, the Governor may also return the bill for reconsideration provided that it is not a money bill. While returning the bill he may send a message requesting the House or Houses to reconsider the bill in the light of the suggestion made by him and the House or Houses are required to reconsider the bill "accordingly". But besides considering the amendments and the suggestions made by the Governor, the House or Houses can consider and accept other amendments as well. If the bills are passed again with or without amendments, the Governor can not withhold his assent. Since the dissolution of the Legislative Assembly neither affects the position of the bills after they have been passed by the Legislative Assembly (or both the Houses) nor the powers of the Governor for sending a bill back for reconsideration, therefore, it seems as if the Governor can do so. However, the phrase "as soon as possible" in connection with the bills to be sent back for reconsideration implies that ordinarily the Governor would do so immediately and in the same session if possible, which means to the House which has passed it.

IN RELATION TO THE COUNCIL OF MINISTERS AND STATE ADMINISTRATION

Appointment of Chief Minister. When there is a single majority party or a coalition of parties with a clear majority and an elected leader of such a party, there is little choice for the Governor, so far as the appointment of the Chief Minister is concerned. But when none of the political parties or coalition of parties has a clear majority in the Assembly, the Governor is called upon to play an important part in the appointment of the Chief Minister. In order to come to certain conclusions on this subject we take up a few illustrations for our consideration.

In Madras (1952), the Governor invited Rajagopalachari to form a Congress government, although the Congress had a strength of 155 only in a house of 375 members, and T. Prakasam had sent the Governor a list of 167 members who, he claimed, had formed a

¹J.R. Sirvach, *Office of the Governor : A critical Study*, pp. 194-95.

new party—United Democratic Front—under his leadership. Rejecting his claim, the Governor said, “I am not going to recognise the combination of groups. I am going to call that party which in the elections emerged as the largest single party.” Defending this action later on he wrote, “The Head of the State is perfectly within his rights—in fact it is his duty—to call, in these circumstances, the leader of the largest group to form the Government. If all the other parties join together and defeat the Government, then and then only, can the Head of the State call the person whom these parties together may choose as their leader to take charge of the Government.”

In Rajasthan in 1967 after the Fourth General Election, it was found that no party was able to secure a stable majority in the Assembly. The non-Congress legislature parties formed S.V.D. and elected its leader. But the Governor invited Mohanlal Sukhadia the leader of the Congress Legislature party which had emerged as the largest single party, to form the ministry on 4 March 1967. As a protest against the decision of the Governor, there took place widespread violence and agitation in Jaipur. The political situation in the State rapidly deteriorated, as a result of which Sukhadia expressed his unwillingness to form the Government. The Governor, subsequently, recommended the imposition of President's Rule in the State for a brief period. The Governor of Rajasthan was criticised in the Lok Sabha for having acted as a Congressman rather as a Governor.

In Bihar, the mid-term election result of 1969 did not give a clear majority to any party. Harihar Singh, the leader of the Congress Party, which was the largest single group in the Assembly, was entrusted with the task of forming a Government. But S.S. Dhavan, the Governor of West Bengal, followed a different practice. After mid-term election in 1971 it was found that the C.P.M. dominated U.L.F. secured 123 seats in West Bengal Assembly and emerged as the largest single group in the legislature. In a letter addressed to the Governor on 15 March 1971, Jyoti Basu, leader of the U.L.F., requested the Governor to invite him for ministry-making in the State on the ground that the U.L.F. was the largest single group of members in the newly elected Assembly. The Governor in reply to the letter asked him to give a reasonable proof of his majority. But as the U.L.F. refused to furnish proof of its absolute majority in the Governor's drawing room, the Governor did not call the leader of the U.L.F. to form the Ministry. The

Governor invited Ajoy Kumar Mukherjee, the leader of the newly-formed Democratic Coalition to form the Government.

From the foregoing examples, it is clear that the Governors in different States have followed different practices in the selection of the Chief Minister, when no party was able to command an absolute majority in the State Legislature. These are mainly of two types : (1) some of the Governors assessed the following of the different claimants, and after assessing the claims and counter-claims, they invited the leader, who according to them could command a majority in the Assembly; and (2) some other Governors invited the leader of the largest party in the Assembly to form the Government without assessing the claims or counter claims.

The principle that the Governor should assess the following of the various contenders for the office of the Chief Minister, before inviting him to form the Government also found favour with the Governors' Committee, which was appointed by the President in November, 1970. This committee recommended that 'the leader of the largest single party in the Assembly (when no party has an absolute majority) has for that reason alone no absolute right to claim that he should be entrusted with the task of forming a Government to the exclusion of others. The relevant test for a Governor is not the size of the party but its ability to command the support of the majority in the Legislature. The Governor has first and essentially to satisfy himself that the person whom he invites to form the Government commands majority support in the Legislature. The Committee went even to the extent of recommending that "the leader of the party which is in a minority in the Assembly may also be invited to form a Government without that party necessarily entering into a combination with other parties provided the Governor is satisfied that such a minority party leader would be able to command the support of other parties in the Assembly for its policies."

In any case, assessment of the following of the leader, who is to be appointed Chief Minister, is significant. For this purpose, two modes, broadly speaking, are evident : (1) list system and (2) physical verification. The first method of assessment of the situation by 'list' system was followed by the Bihar Governor in June 1968, when the mid-term poll resulted in a vague political situation. The Congress emerged as the largest party with a total strength of 118 members. But the claims for forming the government were staked

by both the leaders of the Congress and that of the United Front, both submitted lists of their respective supporters. The Governor invited Harihar Singh, Leader of the Congress, to form the government without verifying the loyalty of members in the list.

On the contrary, in February 1978, the Maharashtra Governor followed the second system by holding the physical verification of members at the Raj Bhavan. The election results showed that no party had secured an absolute majority; however, the Janata Party emerged as the largest single party with a strength of 99 in a House of 288 members. The Congress and Congress (I) decided to come together despite their split in the recent past. On 3 March, the leaders of both the parties submitted a letter to the Governor, urging their claim to form the Government; and the next day, they jointly presented a list of 148 legislators who had pledged support to their ministry and also informed the Governor that the names of two other members would be submitted on 5 March. At the same time the Janata Party and her allies also presented a list of 145 members and claimed that they had a majority support. On 5 March, legislators of the Congress and Congress (I) presented themselves at the Raj Bhavan. The Janata Party and allies challenged the claim of Congress parties and expressed their willingness to physically present all the 145 members. It was difficult to sort out the mystery of five legislators whose names figured in both the lists. Therefore, the Governor called those five members to his Chamber and personally verified their loyalty. On 6 March, after being convinced of the Congress parties claim, he invited their leader to form the government.¹

Resignation and Removal of Chief Ministers/Ministers. The simplest method is that of voluntary resignation for any reason or after defeat in the Legislative Assembly. The Chief Minister of Rajasthan, Jagannath Pahadia resigned on 11 July 1981. He told newsmen that nobody had asked him to step down, although it was well-known that he had been directed to do so by the Congress President, Smt. Indira Gandhi. The Chief Minister of U.P., Vishwanath Pratap Singh submitted his resignation to the Prime Minister, Smt. Indira Gandhi, because of the recurrence of violence in Moradabad and Aligarh, but his resignation was not accepted. This was really a commendable step, because the principle of the political

¹Saroj Hirawat, 'Changing Role of the Governor in Appointing the Coalition Ministry in the Context of Maharashtra : An Appraisal,' J.C.P.S. Oct. Dec. 1978, pp, 56-8.

boss accepting responsibility for the failure of the administration should be established. Again in November 1981, he offered to resign in one month if he was unable to restore a semblance of law and order in the State. This was really a courageous move on his part, although such an eventuality did not arise. The Chief Minister of Maharashtra, A.R. Antulay sent his resignation to the Prime Minister for his politically and morally wrong part in the various trusts. Although the Prime Minister did not accept his resignation at that time, shortly afterwards he had to resign because of an adverse judgment by the High Court in the so-called cement allotment scandal.

The Governor should dismiss the Ministry if it does not resign when a clear vote of no-confidence has been passed against it. About the vote of non-confidence, it should, however, be noted that when the Government is defeated Governor's pleasure may not always be withdrawn, if the Cabinet still commands a majority, because there can be a temporary defeat of a Government particularly of a coalition, on certain specific issues on which the political parties which have formed a coalition Government, may either agree to differ or may differ otherwise. This happened in Punjab in April 1967 when the Punjab Government was "defeated by 53 votes to 49 on the issue of an opposition amendment to the Governor's Address". Then the Chief Minister neither resigned, nor did the Governor withdraw his pleasure. The Cabinet has at all times the privilege of demonstrating by proposing a vote of confidence, its control of majority. This is what Gurnam Singh said; but such a necessity did not arise then.

But if as a result of defections in the ruling party, the Government ceases to have a majority and is defeated on a motion of thanks to the Governor's address, the Chief Minister should resign immediately; but if he does not do so the Governor should dismiss him. The first course of action was adopted by C.B. Gupta in March 1969, the then Chief Minister of U.P., when the Governor's address was rejected because of defections in his party by Charan Singh. Similarly T.N. Singh, the Chief Minister of U.P. also resigned when his Government was defeated on the motion of thanks to the Governor's address on 30 March 1971. The Governor may also withdraw his pleasure when he has a reasonable ground to believe that the Chief Minister no longer enjoys the confidence of the Legislative Assembly and if he is not prepared to face the Assembly on

one pretext or the other.

V.P. Singh, Chief Minister of Uttar Pradesh, submitted his resignation to the Governor on 28 June 1982. He said he had taken this step in view of the massacre of 16 villagers of Kanpur and Mainpuri by dacoits on the preceding day. He told newsmen: 'My conscience does not permit me to stay in office with my ministry having failed to end the dacoit menace.' The people of the State expected results, and not assurances. 'If my government cannot give them protection from dacoits, I have no right to stick to office', he stated. He added that he had not consulted the Central Congress (I) leadership about his action. 'It is my decision, based on the dictates of my conscience'. It may be recalled that in accordance with the dictates of his conscience he had once before submitted his resignation to the party president and had announced a second time to do so if he failed to end the dacoit menace within a month. On both the previous occasions, he was persuaded not to press his resignation. By resigning he set a noble example and showed the true spirit of a Gandhian Congressman.

Administration. The Union Government does not want the Governors to be a mere spectator in the administration of the State. Inaugurating the annual conference of Governors at Rashtrapati Bhavan, V.V. Giri, the President "laid considerable stress on the responsibilities of Governor in the new context and said that his role has assumed special significance." On the new responsibilities of the Governor, the President said : "While functioning within the four corners of the Constitution, they have to be active participants in the management of the affairs of the States. I would commend in this connection a paragraph in the instrument of instructions to the Governors which the Constituent Assembly had at one stage thought of incorporating in the Constitution." It exhorted every Governor to do all that lay in him to maintain standard of good administration, promote all measures making for moral, social and economic welfare and tending to help all classes of population to take their due share in the public life and the Government of the State and to secure amongst all classes and creeds cooperation, good-will and mutual respect for religious beliefs and sentiments.

Distribution of Portfolios. Besides appointing Ministers, the Governor distributes portfolios among the Ministers on the recommendations of the Chief Minister. Whenever, a Minister hands over charge of his portfolios to another Minister for a temporary

period with the permission of the Chief Minister, the Governor has to be informed. West Bengal Governor S.S. Dhavan wrote a letter to the Chief Minister, expressing his "displeasure" at the way State Ministers were transferring their portfolios temporarily to their Ministerial colleagues without reference to the Chief Minister.

In the cases of those civil servants who hold office during the pleasure of the Governor, their services are governed by elaborate civil service rules. In this connection, the Rajasthan High Court held that "the power conferred by Rule 35 of the Rules, in our opinion, is a power to be exercised by the Governor in his discretion. This is clear from the distinction that the rules themselves make between the powers of the Government and the powers of the Governor. Any act which is to be performed by the Governor in his discretion by or under the Constitution has to be performed by him alone." Again, it should be noted that Dharma Vira, former Governor of West Bengal and Mysore, expressed the opinion that while performing his functions as a Chancellor, the Governor was not bound by the advice of the Cabinet Minister.¹

'The Governor is, thus, not a mere figure-head but an important functionary, and who also knows that he is expected to lubricate the machinery of Government, to see that all the wheels are going well by reason not of his interference, but of his friendly intervention.' For as Dr. Ambedkar pointed out, the Governor has a two-fold duty in relation to his Ministry: "One is that he has to retain the Ministry in office because the Ministry is to hold office during his pleasure. The second duty is to advise the Ministry and suggest an alternate method of dealing with a problem and ask them for reconsideration of decisions." The Governor, asserted V.V. Giri in 1957, need not be a "sleeping partner" and could function actively provided he did not impose himself on others and avoided rubbing people on the wrong side. "He must see", even Dr. Ambedkar had visualised, "that the administration is carried on a level which may be regarded as good, efficient, honest administration."²

Demand for Governor's Removal. In many cases when the Governors did not use their powers in an absolutely impartial manner, the opposition parties, leaders and other critics not only criticised

¹J.R. Sivach, *op. cit.* pp. 257-61.

²S.A.H. Haqqi, 'The Role of the Governor', I.J.J.P.S., Oct-Dec., pp. 340-41

their actions and protested against them, but also demanded the resignation and removal of the Governors concerned. Several illustrations of Governors' partisan attitude in favour of the ruling parties (Congress and Janata) have already been stated. On 15 January 1982, the left democratic alliance and the CPM demanded removal of the Assam Governor, Prakash Mehrotra. Addressing a press Conference in Gauhati, the alliance leader, Sarat Chandra Sinha, alleged that the Governor had abused his constitutional powers by "foisting a minority government" on the people of Assam by appointing Keshab Chandra Gogoi, leader of the Congress Legislature Party as the new Chief Minister. He also explained how the Governor had "avoided" him and other alliance leaders who had been frantically trying to meet him since 9 January. He also said that the Governor had not disputed his claim of having a majority in the Assembly. On his own admission, the new Chief Minister enjoyed the support of only 63 members in a House of 126, which left him practically no margin of safety in a State notorious for fickle political loyalties. 'It is surely arguable that in the existing fluid situation, President's rule could have easily continued and there was no need to hasten the formation of a new ministry.'¹

In the 19 May 1982 election for the State Legislative Assembly of Haryana no party was able to secure a majority, although the ruling Congress (I) remained the largest single party. When Devi Lal, leader of Lok Dal, B. J. P. alliance met the Governor on 22 May and told him that he had the majority support, the Governor (G.D. Tapase) asked him to present his supporters at Raj Bhavan on 24 May. But even before giving him this opportunity, the Governor administered the oath of Chief Minister's office to Bhajan Lal, leader of the Congress Party on 23 May. The opposition parties took to Rashtrapati Bhavan on 24 May their demand for dismissal of the Governor (and the Chief Minister). In a memorandum presented to the President, they also suggested that Devi Lal should be called upon to prove his majority, and on his doing so, he should be invited to form the Government in the the State. Devi Lal also paraded 45 legislators before the Governor at Raj Bhavan the same day.

The signatories maintained that the governor's power to appoint a chief minister is not absolute. "He cannot act arbitrarily; he

has to use his discretion in accordance with established norms and conventions. In acting the way he has done he has clearly violated the Constitution and his oath." All this lent a sharp edge to the charge that the Governor had violated constitutional and democratic norms and had acted in a partisan manner at the behest of the ruling party at the Centre, even if he had acted entirely on his own and in the interests of the State as he saw them¹.

Dismissal of Governors. The Governor holds office during the pleasure of the President, who is bound by the advice of the Prime Minister. The Constitutional provision in effect means that a Governor shall hold office so long as he enjoys the confidence of the Prime Minister. In conformity with this interpretation of the Constitution Smt. Gandhi, during her previous tenure of office as Prime Minister, wanted S. S. Dhawan to resign as governor of West Bengal. He demurred and threatened to take the matter to court on the plea that having extended his "pleasure" to him the President could not withdraw it without some ground. However, Dhawan was mollified, as he was appointed member of the law commission and allowed to retain his privileges as governor. The issue was, therefore, not tested in the Supreme Court. 'But it cannot be in dispute that political appointees should resign when the government in question goes out of office. The in-coming government may ask some of these individuals to stay on. But the decision is the government's, not of the political appointees. Strangely enough, this principle has rarely been observed in our country. That is one reason why Prabhudas Patwari had to go in an unpleasant manner. Not many people are likely to be sorry over his dismissal as governor of Tamil Nadu. He had brought the office into contempt with his anti-diluvian ways. He had the temerity to insult President Sanjiva Reddy himself during the latter's visit to Madras.'²

Like Patwari before him, the Rajasthan Governor, Raghukul Tilak was removed from office by a Presidential directive. This did not come as a surprise, as he had ignored broad hints that he might resign because of his manifestly poor health. Some time later T. N. Singh, Governor of West Bengal, was persuaded to resign.

Governor's Resignation. Any Governor can resign voluntarily for personal reasons or a Governor may also be forced or persuaded

¹*Times of India*, editorial comment, 25 May, 1982.

²*Times of India*, 15 Jan., 1982.

to resign, as in the case of Dhawan and T. N. Singh. But we would like to refer here to one other factor which may lead a Governor to offer his resignation, because some Governors were treated with scant respect or as mere stooges. Dr. H. C. Mukherji, who was deputy-chairman of the Constituent Assembly and later Governor of Bengal as well as a man of great dignity and Spartan simplicity was mortified because a pompous Central minister staying in the Raj Bhavan had told him that he was running a rather loose joint and therefore discrediting his predecessors. The Governor was grievously pained, so he sent a letter to Prime Minister Nehru reporting the incident and asking to be relieved at once.¹

VI. Governor as an Agent of the President/Union Government

'The President maintains liaison with the State Government through the medium of Governors. It is through the Governors that he ensures that the policies of the State Government remain consistent with the schemes set forth by the Central Government. For this reason the Governor has, through his periodical reports, to appraise the President of the governmental and non-governmental activities in his State. It is a feature of Presidential control that the Governor in the submission of his reports to the President is not bound to consult the ministry although as a mark of respect to the institution of democracy and as a matter of courtesy the Governor sends a copy of his report to the Chief Minister of the State also. There are occasions, however, when the Governor sends reports to the President on the failings of administrative machinery in his State and suggests remedial measures therefor. Such reports are apart from his fortnightly reports and these are exclusively submitted by him to the President without endorsing their copies to the Chief Minister. It rests with the President and the Union Government to take such action as they might deem necessary in any particular situation.'²

It cannot be denied that under article 357 (1) (a) whenever the President authorises the Governor to act on his behalf, the Governor acts, as the agent of the Central Government. Speaking on the

¹Inder Malhotra, 'Stooges or Satraps?' Times of India. 8 Nov., 1981.

²R.N. Misra, *The President and the Indian Republic*, p. 167.

“constitutional aspects of Dharma Vira episode” in a group discussion in Delhi the then Law Minister said : “President’s rule was not the Governor’s rule. The Union Home Minister could always advise the President with regard to the conduct of a Governor and request his withdrawal because the Union Government administered the President’s rule.” Hence, so far as the Centre is concerned, it is now firmly of the view that “the President’s rule means rule by the Centre.... This reading of the constitutional position has also been taken to mean that the Centre may run a State with the help of the advisers putting the Governor on shelf and that such advisers could report direct to the Union authorities and take orders without even the knowledge of the Governor. In other words, a Governor could be made ineffective in case the Centre does not think him capable of running the administration. A corollary to this is that if a Governor is considered capable of running a State on behalf of the President no adviser may be appointed... Some Governors, for instance, Dharma Vira (when he was the Governor of Mysore) and Vishwanathan (when he was the Governor of Kerala) were left free to run the state under the general supervision of the Centre.¹

Problem of Governor’s Method of Appointment. In view of the important role of the Governor as discussed above, it would be appropriate to consider whether the present method of appointing Governors should be modified and if the answer is in the affirmative, what can be the better alternative methods? The Study Team examined several suggestions in regard to this subject; the following deserve to be noted : (a) The appointment of the Governor should be made subject to the ratification by Parliament. (b) The Union Government should informally consult the Leader of Opposition in the Lok Sabha on every selection of a Governor before making the appointment. (c) The appointment of Governors should not be treated as the prerogative of the Union Government. Since the Governor is not merely a Presidential agent but also the constitutional head of the State apparatus and in that capacity independent of the Union Government, it has been suggested that appointment by the Union Government acting through the President is not consistent with the federal character of the Constitution. The implication is that the President can and should act in his discretion in appointment of the Governors.

The above suggestion poses a fundamental constitutional question : whether the President possesses discretionary powers

¹ J.R. Sirvach, *op. cit.*, p. 279.

under the Constitution or not, and the further question whether he should possess such powers or not? These are serious questions which do not yield to any easy solution. 'Having regard to the pattern on which our Constitution is based, it would be hazardous to state that the President should perform important functions like the appointment of Governors of the States without the advice of the Council of Ministers. Constitutionally, legally, and otherwise the proper course is undoubtedly that the President must act on the advice of the Council of Ministers in appointing Governors in the States.¹ The following suggestions also deserve to be considered: (i) He should be appointed by the President out of a panel of names prepared by the Central Government in consultation with the opposition at the Centre and the Chief Minister of the State. (ii) The Governor should be appointed by the President out of a panel of names recommended by President's Council consisting of ex-Judges of the Supreme Court. (iii) The President should exercise his discretion in the appointment of the Governors and he should not be bound by the advice of the Council of Ministers in this respect.

Guidelines for Governors. The Governors' Committee set up in November 1970 by the President of India for studying and formulating the norms of the role of the Governor, defined the Governor's role in tackling ticklish political situations in the States. The report states that it is the right of the Governor to dismiss a ministry under article 174(1) of the Constitution in a situation where "the Chief Minister shirks his primary responsibility of facing the Legislative Assembly within the shortest possible time to test his majority." The Chief Minister's refusal, in such a situation, must be interpreted as *prima facie* proof that he no longer commands the majority support in the House. In that case the Governor should instal a new Ministry if there is a party or parties, in a position to form an alternative Government. Only if there is no possibility of forming an alternative Government, the Governor should recommend to the President of India under article 356 the imposition of Presidential Rule in the State and the dissolution of the State Assembly. But the Committee did not define in its report "within the shortest possible time".

The Committee suggested that the Governor should allow a Minister or the Chief Minister to continue in office after he has

¹Asoke K. Sen, 'Role of the Governor in the Emerging Pattern of Centre-State Relations., J.C.P.S., July-Sept. 1971, pp. 270-72.

been defeated in an election but still wants to remain in office. The Committee also considered the principles of the coalition Government. If a coalition breaks up and the Chief Minister demands the resignation of his colleagues with whom he has parted company, the Committee feels, the Chief minister has no longer the right of advising the Governor in relation to appointment or dismissal of the Ministers in such a manner "as to break the arch and yet claim the right to continue as the Chief Minister."

On defections, the Committee considers it to be "the most disturbing feature of our political life." The Committee does not favour the idea of enacting a law for banning defections. But the Committee suggests that the members changing loyalty to their party should go to their constituencies which have elected them and should get the approval of their electorate by seeking fresh elections. However, a law may be enacted preventing a defector to have a place in the cabinet unless he seeks a new verdict of the electorate.

The Committee has suggested that the test of the confidence in the Ministry should normally be left to a vote in the Assembly and if the Chief Minister refuses to test his strength, the Governor would then be entitled to withdraw his "pleasure" under Article 164(1) of the Constitution. The Committee has circumscribed the vast scope of the discretionary powers of the Governor. But at the same time he has not been rendered ineffective in the State politics.

CHAPTER 9

State Legislatures

I. The Legislative Assemblies (L.A.s.) Or Vidhan Sabhas

Composition. Article 168 of the Constitution provides for a L.A. in each State. The Constitution also prescribes that the L.A. of a State shall not consist of more than 500 and not less than 60 members. The biggest L.A. has been provided for the State of U.P. Originally, it was laid down in the Constitution that subject to the prescribed maximum number, a member of the Assembly would represent at least 75,000 persons ; but this condition was removed under the 17th amendment because if this condition was to be observed the number of seats in the L.As of thickly populated States would have exceeded the prescribed limit. It has now been laid down that the ratio between the population of any two Assembly constituencies in a State will be nearly the same within a given State.

The Two-Member Constituencies (Abolition Act), 1961 led to the creation of only the single-member constituencies, which are delimited by the Presidential Order made in consultation with the Delimitation Commission in such a way that they are geographically compact areas having regard to the physical features, administrative boundaries and facilities of communication and public convenience. Any adjustment due to changes in population of the various constituencies is made after the completion of 10-yearly census. Special representation is provided for the scheduled castes and scheduled tribes, except the scheduled tribes in the tribal areas of Assam, in Nagaland and in Meghalaya, in the L.A. of every State. Seats are reserved also for the autonomous districts in the L.A. of Assam. The number of seats reserved for scheduled castes (S.C.) and scheduled tribes (S.T.) is to bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as their population in the State or part of State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State. The same

condition applies to the reservation of seats for the autonomous districts in the Assembly of Assam. It is also provided that the Governor of a State may, if he is of the opinion that the Anglo-Indian community needs representation in the L.A. and is not adequately represented therein, nominate one member of that community to the Assembly. However, the reservation of seats for scheduled castes and scheduled tribes is to cease after 40 years from the commencement of the Constitution (i.e. 1950). But this provision will not affect the existing L.A.'s.¹

Elections. They are held on the basis of adult (21 years) franchise ; and under the system of joint electorates. They are conducted and supervised by the Election Commission, appointed by the President for the Union as well as State elections. A candidate for an Assembly seat must be at least 25 years old, a citizen of India and he must not be disqualified. The disqualifications laid down by the Constitution are : (1) No person can be a member of the legislature : (i) if he holds any office of profit under the Government (ministers are exempted) ; (ii) if he is of unsound mind ; (iii) if he is an undischarged insolvent ; and (iv) if he is disqualified by any law made by the Parliament. The Constitution also lays down : (a) No person can be a member of both Houses of Legislature; (b) no person can be a member of the Legislatures of two or more States ; and (c) no person can be a member both of Parliament and of a House of the Legislature of a State. If any question arises as to whether any member has become subject to any of the disqualifications (i) to (iv) the question is to be referred for the decision of the Governor, who is required to obtain the opinion of the Election Commission and act accordingly.

Officers of the L.A. A L.A. chooses two of its members to be respectively the Speaker and Deputy Speaker of the Assembly. They can be removed from this offices by the Assembly, by means of a resolution passed by the majority of the then members of the House, preceded by a 14 days' notice. They hold their offices so long as they are members of the House ; but they may resign their offices when they desire to do so. Their salary and emoluments are fixed by law of the State Legislature, for example, the Bombay (Maharashtra) Assembly (Speaker and Deputy Speaker) Salaries and Allowances, Act, 1956, and the Madhya Pradesh Speaker and Deputy Speaker (Salaries and Allowances) Act, 1959-60.

¹*Articles 332-334.* In the Assam 16 seats have been reserved for the autonomous districts as follows : United Khasi and Jantia Hills district 5, 'Garo Hills districts 4, Mizo districts 3, North Cachar Hills 1 and Mikir Hills 3.

The powers and functions of the Speaker and Deputy Speaker are the same as those of the Speaker and Deputy Speaker of the Lok Sabha. While the office of Speaker is vacant, the duties of the office are performed by the Deputy Speaker, but if the office of the latter is vacant, by such member of the Assembly as the Governor may appoint for the purpose. During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker, if he is also absent, such person as may be determined by the rules of procedure (a member of the panel of presiding officers) of the Assembly, or, if no such person is present such other person as may be determined by the Assembly, acts as Speaker. The Speaker has the right to speak in, and otherwise take part in the proceedings of, the L A (but not to preside over such a sitting) while any resolution for his removal is under consideration in the Assembly, and is entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes.¹

II. The Legislative Councils (L.C.s.) or Vidhan Parishads.

Justification for their Creation. 'It was the Government of India Act, 1935 that introduced bi-cameralism in the Indian provinces. This in itself was a sinister move on the part of the British Government devised with the purpose of imposing a curb on the progressive, democratic forces represented in the lower house. Bi-cameral legislatures were, through this Act, set up in the provinces of Bengal, Madras, Bombay and the United Provinces.' Even then it had been pointed out that there being intense conservatism in India, Second Chambers were not needed at all; but the Government

¹Articles 178-81. Also note an interesting development with regard to the power of the Speaker. In February 1982, the newly formed ministry of Kerala, headed by K. Karunakaran (Congres I) was saved by the casting vote of the Speaker in the Assembly, 70 members voting for and 70 voting against. In accordance with the established practice, the Speaker's action in maintaining the *status quo* could be justified. But in the following seven divisions, the Speaker further cast his vote in favour of the Government. This was something unique in the history of parliamentary government. Speaker's action was severely criticised by the opposition groups and leaders. However, in defence of the Government side it may be added that just prior to the commencement of the session, the Speaker and Deputy Speaker of the Assembly (belonging to the Opposition had regned in view of the coming trial of strength). The ruling party got one of its adherents elected as Speaker on the first day of the session. It is thus evident that the ministry enjoyed the support of 71 members in a house of 141. If the outgoing Speaker had not resigned, the ruling party could command a majority of two against the Opposition.

justified the measure 'for the purpose of revision and encouragement of prudent legislation', as the provinces were 'embarking upon a new career for responsible legislative power'. Moreover, the Government was of the opinion that all substantial elements and interests could be reasonably represented only through the establishment of Second Chambers. Some provinces were not given Second Chambers either because of their small size or the anticipated difficulty of finding suitable material to man another chamber. The Government's justification for the bi-cameral system in the provinces, therefore, had a two-fold basis. Firstly, "because there were certain interests in them which would be well served by a bi-cameral form of legislature." Secondly, "because the provinces concerned had at one time or another signified their approval of or had wished for a Second Chamber."¹

In the Constituent Assembly, H.V. Kamath admitted that an upper house in New Delhi was acceptable, but in the provinces, he said such houses were "pernicious and vicious." 'Not all Assembly members, however, agreed with Kamath. The argument bounced back and forth between those who believed that upper houses were a "good check upon democratic outbursts", and members who thought the second chambers "safeguard (ed) the interests of the propertied-classes and vested interests", the classes that "buttressed and bolstered up British rule". There was argument between those who believed that upper houses introduced "an element of sobriety and second thought", and those who thought that they acted as "clogs in the wheels of progress". K. Santhanam believed that second chambers were not necessary to avoid hasty enactment of legislation, because the modern legislative process was sufficiently slow to accomplish this end itself. But he did suggest that a minor check, or brake, be put on the legislative process in the provinces. The Governor, according to Santhanam's plan, was to give suggestions for amendment. If the legislature repassed the bill, with or without amending it the Governor was bound to assent to it. This 'veto power', said Santhanam, would prevent hasty action by a legislature or a ministry". The provision found a good deal of support and the Assembly adopted it without at the same time laying down that provincial legislatures should be unicameral.²

¹ Sita Srivastava, *The Upper Chamber in the Indian States*, Parliamentary Studies, Dec. 1981, p. 18.

² See G. Austin, *The Indian Constitution ; Corner-stone of a Nation*, pp. 157. 59.

*Composition of L.C.s.*¹ The basis is given in article 171(3). A Council consists of indirectly elected² members, providing representation to certain social and functional groups and certain unorganised interests in the society as would be clear from the following : (i) 1/3rd of the total number of members are elected by the local bodies constituencies, comprising municipalities, zila parishads, bodies of port commissioners, etc ; (ii) 1/12th of the total members are elected from the graduates' constituencies in the State, comprising of persons who are graduates of at least 3 years' standing ; (iii) 1/12th of the members are elected by the teachers' constituencies, consisting of teachers with 3 years' standing in the State Universities and other higher educational institutions (i.e. not lower than the secondary schools) ; (iv) 1/3rd of the members are elected from the L.A. constituency, i.e. are elected by Assembly members ; and (v) the remaining 1/6th of the members are nominated by the Governor, from amongst persons who have obtained distinction, or otherwise have gained experience, or acquired special knowledge in literature, art, science, cooperative movement or social service.

The nomination by the Governor, in most cases, means nomination on the advice of the Chief Minister ; in actual practice, Governors have sometimes used their discretion in a partisan spirit, favouring the ruling party. The Governor of Madras nominated C. Rajgopalachari to appoint him as Chief Minister and his action was very much criticised even at that time. The composition of the L.C.s was affected by the States Reorganisation Act, 1956 as well as by the Legislative Councils Act, 1957 and the Bombay Reorganisation Act, 1960. The Constitution fixed the maximum number of members, laying down that it should not exceed the limit of 1/3rd of the total membership of the Assembly, but in no case it should be less than 40. The Legislative Councils Act, 1957 increased the membership of the L.C.s of several States ; and accordingly modified the limitation of Constituencies Orders for the affected States. (The President may by order determine the constituencies for elections to a Council). The present size of the Council is given in the Third Schedule to the Representation of People Act, as amended from time to time. The

¹A member of the L.C. must be at least 30 years of age ; other qualifications are the same as those for members of the L.A.s.

²Elections are held on the basis of proportional representation and by the method of single transferable vote.

following table shows the distribution of seats in the various legislative Councils :

Name of the States.	Total No. of Members	Elected by				No-mina- ted.
		L.As.	Local Bodies.	Gradu-ates	Tea-chers	
Andhra Pradesh	90	31	31	8	8	12
Bihar	96	34	34	8	8	12
Maharashtra	78	30	22	7	7	12
Tamil Nadu	63	21	21	6	6	9
Karnataka	63	21	21	6	6	9
Punjab	51	18	17	4	4	8
Uttar Pradesh	108	39	39	9	9	12
West Bengal	75	27	27	6	6	9
Jammu & Kashmir ¹	36	21	7	0	2	6

Officers of the L.C. The L.C. chooses two of its members to be respectively Chairman and Deputy-Chairman thereof and, so often as any of these offices becomes vacant, the Council chooses another member to be Chairman or Deputy-Chairman, as the case may be. The Chairman (and the Deputy-Chairman) vacates his office, if he ceases to be a member of the Council. He may resign his office ; and he may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council : Provided that no resolution for this purpose can be moved unless at least 14 days' notice has been given. While the office of the Chairman is vacant, the duties of the office are performed by the Deputy-Chairman ; but if the office of the Deputy-Chairman is also vacant or if he is absent, such persons may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, is to act as Chairman.² The Chairman or the Deputy-Chairman is not to preside while a resolution for his removal from office is under consideration of the Council. Salaries and allowances paid to the officers are determined by law of the State Legislature.

¹The State has its own Constitution in most respects.

²Articles 182-85.

III. Organisation and Procedure

ORGANISATION

Secretariat. The House of each House of the Legislature has a separate secretariat staff. The Legislature itself regulates the recruitment, prescribes the conditions of service of persons appointed to the secretariat staff. Each House has a Secretary and other staff as needed.

Conduct of Business Every member of the Legislature, before taking his seat, has to make and subscribe before the Governor, or some person appointed by him, an oath or affirmation according to the prescribed form. Save as otherwise provided in the Constitution, all questions at any sitting of a House are decided by a majority of votes of the members present and voting, other than the presiding officer, who is not to vote except in the case of an equality of votes. A House has power to act notwithstanding any vacancy in the membership thereof.

Privileges of Members. Subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure, there is freedom of speech for members. No member is liable to any proceeding in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof. In other respects, the powers, privileges and immunities of a House are those as may be evolved by the House, so far as may be in accordance with those of the Lok Sabha and of its members and committees, in accordance with the provisions of the 42nd amendment of 1976. Members are entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of the State by law.

Term and Sessions. The L.A. unless sooner dissolved, continues for 5 years from the date appointed for its first meeting: Provided that this period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of 6 months after the Proclamation has ceased to operate. The L.C. is not subject to dissolution, but as nearly as possible 1/3rd of its members retire as soon as may be on the expiration of every second year. The Governor from time to time summons the Houses or each House to meet at such time and place as he thinks fit, but 6 months must not intervene between the last sitting in one session and the date appointed for the first sitting of the next session. The Governor may from time

to time progogue the House or either House ; and he may also dissolve the Legislative Assembly.

Committees. The House or Houses of a State Legislature make use of committees almost on the pattern of the committees of Parliament. Some of the important standing committees in the State Legislatures are : the Estimates Committee, the Public Accounts Committee, Committee on Assurances, Committee on Subordinate Legislation, Committee of Privileges, Rules Committee, Business Advisory Committee and others dealing with the various departments and subjects under the jurisdiction of the States. Their constitutions and functions differ from State to State in minor details. Some State Legislatures have also set up subject committees. For example, the Speaker of Kerala Legislative Assembly on 17 March, 1980 inaugurated a system of subject committees in the Assembly. According to this system, all the members of the Assembly will be nominated to one committee or another. Each of 10 committees will have a term of two years and consist of 10-15 members. No member will be in more than one committee at one time except the minister. The committees will, among other things, scrutinise the demands for grants before they come up for discussion in the House. They will also study and report on any specified area of Government activity in the interest of public and also examine legislation except appropriation bills. Besides giving a sense of participation to all members, the new system would enable a more meaningful discussion of demands according to the Speaker.¹

PROCEDURE

Procedure Generally. The House or Houses of the Legislature subject to the provisions of the Constitution make rules independently of each other for regulating their procedure and the conduct of their business. In a two-chambered State, the Governor after consultation with the Speaker and Chairman may make rules in respect of communications between the two Houses. However, the Legislature of a State may, for the purpose of timely completion of financial business, regulate by law the procedure of, or the conduct of business, in the House or Houses of the Legislature in relation to any financial matter or a Bill to appropriate moneys out of the Consolidated Fund. Language to be used in the State Legislature is the official language (Hindi or English) or languages of the State. However, a person not knowing any of these languages may be permitted by the presiding

¹I.I.P.A. Newsletter, April, 1980.

officer to speak in his mother tongue. The Legislature cannot discuss the conduct of any Judge of the Supreme or High Court in the discharge of his duties. At the same time the validity of any proceedings in the Legislature of a State cannot be called in question on the ground of any alleged irregularity of procedure.¹

Provisions as to Introduction and Passing of Bills. Subject to the provisions of articles 198 and 207 with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature. Subject to the provisions of articles 197 and 198, a Bill cannot be deemed to have been passed by the Houses of the Legislature having a L.C. unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses. A Bill pending in the Legislature does not lapse by reason of the prorogation of the House or Houses thereof. A Bill pending in the L.C. which has not been passed by the L.A. does not lapse at the dissolution of the Assembly. But a Bill, which is pending in the L.A., or which having been passed by the L.A. is pending in the L.C. lapses on the dissolution of the Assembly.

Special Procedure in respect of Money Bill. A Money Bill cannot be introduced in the L.C. After a Money Bill has been passed by the L.A., it is transmitted to the L.C. for its recommendations, and the L.C. has to return the Bill, within a period of 14 days from the date of its receipt, to the L.A. with its recommendations, and the L.A. may thereupon either accept or reject all or any of the recommendations of the L.C. If the Bill is not returned by the Council within the said period, it is to be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Assembly. The definition of a Money Bill has been given in Chapter 7.

Legislative Procedure. A Bill (other than the Money Bill or Financial Bill) after introduction undergoes the usual three readings and the committee stage (after the first reading, whenever referred to a committee). The stages in the passing of a Bill are the same as in the case of a Bill in Parliament. But in case of a disagreement between the two Houses of the Legislature, the procedure is different. In the State Legislatures, there is no provision for a joint sitting of the two House for resolving the disagreement, as in the case of the two Houses of Parliament. The relevant provision is that when such a Bill passed by the Assembly and

¹ Articles 208-12.

transmitted to the Council (a) is rejected by the Council or (b) more than 3 months have elapsed since its being laid before the Council or (c) is passed by the Council with amendments to which the Assembly does not agree, the Assembly may pass it again in the same or subsequent session with or without amendments made by the Council and then transmit it to the Council. Then if (a) the Bill is rejected by the Council or (b) more than one month elapses after the Bill has been laid before the Council or (c) the Bill is passed by the Council with such amendments to which the Assembly does not agree, the Bill is to be deemed to have been passed by both the Houses in the form in which it was passed by the Assembly the second time, whether in the original or amended form.

Financial Procedure. In a nutshell it is the same as described in the case of Parliament. However, with regard to the special procedure for Money Bills, the main points may be stated briefly: The Governor, in respect of every financial year, causes to be laid before the Legislature the 'Annual Financial Statement' which shows the estimated receipts and expenditure. On the expenditure side, it shows separately (1) sums required to meet the expenditure charged upon the State Consolidated Fund, and (2) sums required to meet other expenditure. The expenditure charged upon the Consolidated Fund is not voted upon though it may be discussed. Other expenditure is submitted in the form of demands for grants to the Assembly which has the power to vote upon them. A demand for a grant can only be made on the recommendation of the Governor. As soon as all the grants are passed, they are embodied in the Appropriation Bill, which when passed authorizes the State Government to spend money from the Consolidated Fund of the State. The Finance Act embodies all the revenue raising proposals as passed by the Legislature. As in the case of the Union Government there is provision for passing of supplementary demands as well in the States.

Assent to Bills. A Bill passed by the House or Houses of the Legislature is presented to the Governor. If it is a Money or Financial Bill, the Governor can not refuse his assent. But a non-Money Bill may be assented to or assent may be withheld from it or it may be returned to the Legislature for reconsideration in the light of any amendments or message sent by the Governor. However, if such a Bill is passed by the Legislature a second time, whether with or without any amendments, the Governor can not refuse his assent to the Bill. Thus the Governor may only cause postponement or delay in the enactment of a particular law, but he

cannot obstruct its passage.

IV. Powers and Functions

The powers and functions of the Legislature may be discussed as follows :

Legislative Powers. The State Legislature is competent to make laws on all subjects included in the State List as well as in the Concurrent List.¹ But a State law on any subject included in the latter list becomes void to the extent of its repugnancy to the law of the Union, i.e. the latter prevails over the former. However, its powers are limited in these respects (a) during the proclamation of an Emergency the Union Parliament is also empowered to make laws even on subjects included in the State List ; (b) on a resolution passed by the Council of States by a 2/3rds. majority, Union Parliament can make a law in national interest on a subject included in the State List ; and (c) the Governor is required to reserve certain kinds of Bills for the consideration of the President.

Thus the legislative power of the State is subject to certain limitations. The President has an important role in State legislation, which would be clear from the following account. 'In a purely federal Constitution, the constituent units are ordinarily independent within the sphere allotted to them by the Constitution and the federal executive has no power to veto laws passed by them. This is the position in the U.S.A. and Australia. But in India, the law-making powers of the State Legislatures are not co-ordinate and independent of Parliament in every respect, because the Union President plays quite an important role in State legislation in so far as : (i) certain kinds of Bills have to be reserved by the Governor for his consideration ; (ii) he has a special role in concurrent legislation ; (iii) his prior sanction has to be obtained by the Governor for issuing certain types of ordinances; and (iv) he may be empowered by the Parliament to legislate for a State when its constitutional machinery fails.

Under article 200 of the Constitution, power is vested in the Governor to reserve a Bill for the consideration of the President. The

¹The State List includes more than 60 items, over which the State Legislature has exclusive powers of legislation. Some of the important subjects are : State taxes and duties (see Chap regarding financial relations between the Union and the States), police, administration of justice, local self-government, public health, education, agriculture forests, industries and minerals. The Concurrent List consists of nearly 45 items, such as criminal law and procedure, marriage, contracts, port trusts, welfare of labour, economic and social planning.

second proviso to article 200 is an instance in which it is obligatory on the part of the Governor to reserve for consideration by the President a Bill which, in the opinion of the Governor, would, if passed into law, so derogate from the powers of the High Court as to endanger the position which it is designed to fulfil under the Constitution. Certain other provisions of the Constitution that require reservation by the Governor and assent of the President as to the condition of validity of State Legislation are as follows : (a) Under clause (3) of article 31, the assent of the President is necessary for all State laws authorising the acquisition or taking possession of property compulsorily by the State as referred to in clause (2) of the same article. (b) Under clause 4 of article 31, the President's assent is required for the validity of above relating to public acquisition which was pending as a Bill in a State Legislature at the commencement of the Constitution. (c) Under article 31A, certain types of State legislation providing for acquisition and property have to obtain the assent of the President in order to become law. (d) Law made by the State Legislature relating to taxation in respect of water or electricity will not have effect unless reserved for the consideration of the President and receives his assent. The President's assent is also made necessary for rules and orders as to rates and other incidents of such taxes under the State laws. (e) A provision requires all Money Bills and other bills to which the provisions of article 207 apply to be reserved for the consideration of the President after they are passed by the Legislature of the State.

Article 201 of the Constitution states that when a Bill is reserved by a Governor for the consideration of the President, he may adopt one of the following three courses—(i) he may assent to the Bill ; (ii) he may withhold assent, or (iii) he may, where the Bill is not a Money Bill, direct the Governor to return the Bill to the Houses of the Legislature of the State together with such a message as is referred to in the first proviso to article 200. It is the duty of the Houses to reconsider the Bill within a period of six months from the date of receipt of such message. If it is again passed with or without amendment by the Houses, it is presented again to the President for his consideration.

Control over the Executive and Administration. The Constitution clearly lays down that the Council of Ministers (or the Cabinet) is responsible to the Legislature. In actual practice, this means responsibility to the popularly elected House, i.e. the Legislative Assembly. In consequence of a motion of no-confidence, if passed

by a majority of members present and voting (in the House), the Council of Ministers must resign. The Legislature also exercises its control over the executive in some other ways ; viz. (a) through adjournment motions on matters of urgent public importance ; if ever such a motion is passed, the ministry has to go out of office ; and (b) by rejecting a demand for grant which also has the same adverse effect.

Besides the above, the Legislature exercises general supervision over the State administration (apart from its power of control over the executive) in these ways : (i) asking questions and putting supplementaries for the purpose of seeking information ; (ii) debate on adjournment motions ; (iii) short-notice discussions ; (iv) seeking assurances from the ministers ; (v) general discussion of the demands for grants ; and (vi) ventilation of public grievances and criticism of Government policies and legislative measures, particularly pointing out lapses on the part of the administration in the implementation of Government policies and programmes. The financial committees of the Legislature—namely, the Estimates Committee and the Public Accounts Committee—as well as other Committees conduct probes and inquiries in the financial and other activities of the Government.

Control over Finance. The Legislature is the final authority for the sanction of grants i.e. expenditure for government departments. No money can be withdrawn by the Government from the Consolidated Fund, until and unless the Appropriation Act is passed. According to the established usages the Legislative Assembly can reject a demand for grant or pass a cut motion ; but it cannot increase the amount for expenditure under any demand for grant. The rejection of any demand for grant or the passage of a cut motion leads to the resignation of the Council of Ministers. In the same way no tax or duty can be imposed, increased and even reduced without the approval of the Legislative Assembly. All new proposals for the raising or for making any alteration in the rates of taxation or duty must be approved by the Legislative Assembly before they are given effect. The Estimates Committee and the Public Accounts Committee play an important role in the sphere of financial control of the Legislature over the executive.

CHAPTER 10

Administration of Union Territories

I. Formation of Union Territories.

The Constitution of India, at the time of its commencement in 1950 contained Part VIII, which dealt with the government and administration of Part C States. This category included : Ajmer, Bhopal, Coorg, Delhi, Himachal Pradesh, Kutch, Manipur, Tripura and Vindhya Pradesh. These States were different from the Part A and Part B States, which constituted the Union, i.e. the federation. In other words, they were centrally governed under articles 239 and 240. The President administered them through a Lieut.-Governor or a Chief Commissioner. He had full authority in relation to the government of those States. He was also the executive head for each of them ; and Parliament could provide for a legislative body and a council of advisers for any of these States. The Union Government could extend laws in force in any Part A State to any of them "with such restrictions and modifications as it thought fit."

The States Reorganisation Commission (set up in 1953) found that Part C States were too small to exist independently ; but they could easily be merged with any of the adjacent bigger States. Looking at the problem from this angle, the Commission thought of providing uniform States (as units of Union) with the exception of some small union territories which could not be joined to any of the States. They differed from the full-fledged units (States) in not having a responsible form of government and autonomous status. But they were given some representation in the Union Parliament. Thus Part C States disappeared and only a few centrally administered areas—Delhi, Manipur, Tripura, NEFA and Andaman and Nicobar Islands remained. Subsequently, the number of such territories (designated as Union Territories) was increased, because the former Portuguese enclaves on the Western Coast and French possession of Pondicherry on the Eastern coast were incorporated in the Indian Union. But

later, as a result of the reorganisation of States and Union Territories in the North East and division of Punjab, the erstwhile Territories of Manipur and Tripura attained the state-hood, but new Territories of Mizoram and Chandigarh were carved. NEFA was given a new name Arunachal Pradesh—and a new Territory of Lakshadweep (Laccadive, Minicoy and Animadive Islands in the Arabian Sea) was also added. The Union Territories (U.T.s) at present are : (1) Andaman and Nicobar Islands, (2) Arunachal Pradesh, (3) Chandigarh, (4) Dadra and Nagar Haveli, (5) Delhi, (6) Goa, Daman and Diu, (7) Lakshadweep, (8) Mizoram and (9) Pondicherry.

Some of the criteria adopted for creating a union territory will be seen from the following cases. The merger of the strategically vital region of Manipur with either West Bengal or Assam was considered inadvisable from the point of view of both security and economic development. Territories like Goa-Daman-Diu, Dadra-Nagar Haveli and Pondicherry have been kept separate on account of their distinct cultural character and consequent problems of development. The special position of Delhi as the seat of the Union Government has a parallel not only in the status of Washington D.C., Canberra but also in the greater degree of central control exercised on London and Paris by the national governments there. The special considerations which apply to the different union territories on the main land are applicable to an even greater extent to the island territories in the Bay of Bengal and the Arabian Sea. Interestingly, Chandigarh became a Union territory because it was a bone of contention between Punjab and Haryana. By changing the constitutional status, the dispute was effectively defused.

‘One could contemplate creating union territories in the context of religious or ethnic problems, political discrimination, commercial exploitation of resources and so on, when more conventional solutions do not work. There is a parallel here in the concept of trusteeship territories under article 73 of the Charter of the United Nations. As in the case of the latter the creation of a union territory and its status should take into account the political and economic aspirations of the local people, as also their special religious, social and cultural needs. Some of the existing union territories might, in time, get elevated in status to statehood. But the constitutional device of bringing a territory under Central control is unlikely to outlive its purpose in the foreseeable future ; perhaps new criteria, unfamiliar to the present,

might come to be used.’¹

II. Constitutional Provisions and Parliamentary Statutes.

The Government of Part C (States) Act, 1951 was repealed and the Territorial Councils Act, was passed in 1956. Later the Parliament passed the Government of the Union Territories Act, 1963, in accordance with the Fourth Amendment, which inserted article 239A and 239B. The present constitutional provisions are as under : (1) Save as otherwise provided by Parliament by law, every U.T. is administered by the President acting, to such extent as he may think fit, through an administrator, appointed by him with such designation as he may specify. Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining U.T., and where a Governor is so appointed, he exercises his functions as such administrator independently of his Council of Ministers (Article 239).

Parliament may by law create for any of the U.T.s of Goa, Daman and Diu, Pondicherry, Mizoram and Arunachal Pradesh (a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the U.T.s or (b) a Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law. If at any time, except when the Legislature of the U.T. is in session, the administrator thereof is satisfied that circumstances exist which render it necessary for him to take necessary action, he may promulgate such ordinances as the circumstances appear to him to require (Article 239A and B).

The President may make regulations for the peace, progress and good government of the U.T.s (excepting Delhi) : Provided that when any body is created under the preceding article to function as a Legislature for the U.T. of Goa, Daman and Diu, Pondicherry Mizoram and Arunachal Pradesh, the President cannot make any regulation for the peace, progress and good government of that U.T., except when the Legislature (in any of these U.T.s) is dissolved, or the functioning of that body remains suspended on account of any action under any such law as referred to in article 239 (1). (Article 240). Parliament may by law constitute a High Court for a U.T. or declare any court in any such territory to be a High Court.’

¹Sudesh Raj Dhawan, ‘Rationale for Union Territories’, *Democratic World*, 8 March, 1973.

III. Mechanism of Government/Administration

DEMOCRATIC SET-UP IN SOME U.T.s

Goa, Daman and Diu, Mizoram, Pondicherry and Arunachal Pradesh. In each of the U.T.s of Goa, Daman and Diu, Mizoram, Pondicherry and Arunachal Pradesh there is a democratic set-up, consisting of a Legislative Assembly and a Council of Ministers. The L.A. consists of 30 members, who are directly elected from territorial constituencies. The qualifications for membership are the same as prescribed for members of the State Assemblies. The term of the Assembly is 5 years, but the President can extend its term during an emergency for one year at a time, till six months after the withdrawal of emergency. It can make laws for the whole or any part of the territory with respect to any matter included in the State List as well as subjects included in the concurrent List (in so far as any such matter is applicable to the U.T.). A Bill passed by the Assembly and assented to by the President becomes an Act. The rules of procedure can be made by the Lieut. Governor in consultation with the Speaker.

There is a Council of Ministers in each of these U.T.s consisting of a Chief Minister and other ministers. It advises the Lieut-Governor/Administrator, although he is not bound to accept its advice under the statute. In case there is a difference of opinion, he is required to refer the matter to the President for decision. In the matter of his special responsibility for the order and security in each of the border Territories of Arunachal Pradesh and Mizoram, the Administrator may act in his discretion. The U.T. of Goa, Daman and Diu has a Judicial Commissioner's Court, which is deemed to be a High Court.

ADMINISTRATIVE SET-UP OF OTHERS

Andaman and Nicobar Islands. Before the reorganisation of states, Andaman-Nicobar Islands alone were placed in Part D Category and Lakshadweep Islands were administered as part of old Madras State. Now the President can make regulations for the peace, progress and government of these U.T.s in exercise of this power, the President exercises full legislative power. The President has made regulations which make provisions for the constitution of municipal boards in Andaman and Nicobar Islands. A municipal board consists of elected members and others nominated by the Chief Commissioner. A member's term is 3 years. If the board so desires, it may undertake the construction of roads, public parks, rest houses, dairies, etc., subject to the directions of the Chief Commissioner. It may reclaim the health

localities, support hospitals, hold fairs and take census. It transacts business in ordinary and special meetings. It also has power to impose taxes in accordance with the regulations. The Chief Commissioner may, however, suspend taxes, if he finds them to be unfair in incidence or are otherwise injurious.

Chandigarh. The U.T. of Chandigarh was constituted under the Punjab Reorganisation Act, 1965. Though the existing laws remain in force in the Territory, yet the Union Government may, by notification, extend such other laws as it thinks necessary for the Territory. It can extend a law in force in any State with such restrictions or modifications as it may deem necessary to make. The head of administration is a Chief Commissioner.

Delhi. Its administration is carried on 'save as otherwise provided only by law' by the President acting through Lieut. Governor under article 239. The Territory is administered not merely as a U.T., but also as the metropolitan area. There is no legislature for it ; and Parliament itself makes laws for it. However, local popular opinion is expressed through a Metropolitan Council. The municipal affairs of the city of Delhi are administered by the Delhi Municipal Corporation (D.M.C.). The Metropolitan Council (M.C.) was established by the Delhi Metropolitan Council Act, 1966. It consists of 56 members, chosen from single-member territorial constituencies, plus 5 nominated non-service persons. Its term is 5 years ; but it can be extended by the Presidential order during an emergency. The Lieut.-Governor can prorogue it, and with the approval of the President dissolve it. It is not a legislative body ; it can only discuss and make recommendations with respect to : (i) legislative proposals ; and (ii) proposals for extension of State laws to Delhi. It can also debate budget proposals for Delhi. Its recommendations are considered by the Executive Council and then transmitted to the Union Government in the Ministry of Home Affairs. The Executive Council consists of not more than 5 members, from among those—who are members of the M.C. One of them is called the Chief Executive Councillor. All these Executive Councillors hold office during the pleasure of the President. Collectively it assists and advises the Lieut.-Governor in the exercise of his functions, which he exercises in his discretion (such as law and order, police force, etc.). If the Lieut.-Governor differs from his Council, he is obliged to make a reference to the President, whose decision is final. The U.T. of Delhi also has a High Court, which was constituted under the Delhi High Court Act, 1966.

The D.M.C. consists of 80 councillors and 6 aldermen. The number may be raised after the next census ; and reservation has been

provided for the scheduled castes. Election of members is direct from multi-member wards. Electors are the same as for the various parliamentary constituencies. The aldermen are indirectly elected by the councillors. The term of councillors and aldermen is 4 years. The corporation is headed by a Mayor ; and there is also a Deputy-Mayor. Both of them are elected by the councillors and aldermen ; and the Mayor holds office till his successor takes over. The Corporation carries on the municipal government with the help of these Committees : (i) Standing Committee, (ii) Delhi Electric Supply Committee, (iii) Delhi Transport Committee, (iv) Delhi Water Supply and Sewage Disposal Committee, (v) Rural Area Committee and (vi) Delhi Education Committee.

CHAPTER 11

Union State Relations

I. Legislative Relations

The Three Lists. In order to fully understand the legislative relations between the Union and the States, it is necessary to know the distribution of powers in three lists—Union List, State List and Concurrent List. Some of the most important subjects in the three lists may be mentioned here : *Union List*—defence, foreign affairs, war and peace, railways, maritime shipping, air-ways, posts and telegraphs, broadcasting, mines and minerals, banking, insurance, weights and measures, etc. *State List*—public order, justice, prisons, police, local government, public health, education, agriculture, irrigation, forests, industries other than those in the Union List, trade and commerce within the State, etc. *Concurrent List*—criminal law and procedure, preventive detention, civil procedure, social security, welfare of labour, price control, factories, electricity, newspapers, printing presses, etc.

Extent of Law made by Parliament and by the Legislatures of the States. Subject to the provisions of the Constitution, Parliament may make laws for the whole or any part of the territory of India, and the legislature of a State makes laws for the whole or any part of State. Parliament has exclusive power to make laws with respect to any of the matters enumerated in the Union List and it can also legislate with respect to any matters for Union Territories, notwithstanding that such matter is one enumerated in the State List. Parliament has exclusive power to make any law with respect to any matter not enumerated in any of the three lists, i.e. the residuary power.

Parliament can also legislate with respect to a matter in the State List : (i) If the Rajya Sabha declares by a resolution supported by not less than 2/3rds of its members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to a matter in the State List ; (ii) if the legislatures of two or more States with respect to a matter included in the State List,

request the Parliament to enact a law, it may do accordingly, and any Act so passed shall apply to such States and to any other by which it is adopted afterwards ; and (iii) if there is a Proclamation of Emergency.

Legislation with respect to a Matter Included in the Concurrent List. If any provision of a law made by a State legislature on any of the matters in the 'Concurrent List' is repugnant to a law made by Parliament, the State law shall to the extent of repugnancy be void. However, a law made by any State on a matter in the concurrent list, when it has been reserved for the consideration of the President and has received his assent, shall prevail in that State, though Parliament can make another law with respect to the same matter.¹ Some changes were made in the three legislative lists by the 42nd amendment. The entries or subjects which have been transposed from State List to Concurrent List are : (a) administration of justice, constitution and organisation of all courts except the Supreme Court and the High Courts, (b) education ; (c) weights and measures ; (d) forests ; and (e) protection of wild animals and birds. Also, taxes on advertisements through broadcast by radio or television have been excluded from the purview of entry 55 of the the State List.

II. Administrative Relations

Constitutional Provisions. The executive power of every State is to be so exercised as to ensure compliance with existing laws as well as those made by the Parliament. The Union Government has power to give such instructions to a State as it may deem necessary ; and the States are not to exercise their executive power in a way as to impede the executive power of the Union. The executive power of the Union extends to the giving of instructions to a State as to the construction and maintenance of means of communication declared to be of national or military importance. The power of declaring this vests in Parliament, and the Union Government also has the right to give directions to a State to protect railways within the State, but a State so directed in respect of maintenance of highways or waterways or railways, etc. is to get compensation as regards cost incurred on such works the discharge of which is not included in the State's normal duties. In case of disagreement between the two governments on the question of such compensation, the Constitution provides for the same to be determined by an arbitrator, appointed for the purpose by the Chief Justice

¹Part XI, Chap. 1 of the Constitution : Articles 245-54.

of India.¹

In accordance with article 257A, inserted by the 42nd Amendment Act of the Constitution in 1976, the Government of India may deploy any armed force of the Union or any other force subject to the control of the Union dealing with any grave situation of law and order in any State. Such a force shall act in accordance with such directions as the Government of India may issue and shall not, save as otherwise provided in such directions, be subject to the superintendence or control of the State Government or any officer or authority subordinate to the State Government. Parliament may, by law, specify the powers, functions, privileges and liabilities of the members of such a force during the period of such deployment. According to article 258(1) the President, with the consent of a State Government, can entrust to the said State Government, or any of its officers, functions in relation to any matter to which the executive power of the Union extends.

A law made by Parliament outside the scope of the State Legislature, may confer powers or impose duties upon the State or its officers. In such a case the Government is to bear the extra cost incurred by the State on its administration. Parliament may by law provide for adjudication of a dispute or complaint regarding the use, distribution or control of the waters of any river flowing through two or more States. If at any time it appears to the President that public interests will be served by establishing an Inter-State Council charged with : (i) inquiring into and advising upon disputes between States, (ii) Investigating or discussing subjects in which more than one State have a common interest, or (iii) making recommendations upon any such subject or better co-ordination of policy etc., the President may establish such a Council, and define the nature of its duties as well as its organisation.²

Directions by the Union Government. Under article 339 (2) the Union executive is empowered to give directions to any State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribe in the State. Further, article 350-A empowers the President to issue appropriate directions to any State for securing the provision of adequate facilities for instruction in the mother tongue at the primary stage education to children belonging to linguistic minority groups.

When the Proclamation of Emergency made by the President under article 352 is in operation, the Union executive is empowered

¹Articles 256, 257, 353(a) and 360(3) empower the Union Government to give directions to the State.

²Article 263.

to give directions to any State as to the manner in which the executive power of the State shall be exercised. Directions so given can only extend to the manner of the exercise of the executive power of the State and not to the actual exercise of such power by the Union itself. Further, when the President makes a declaration of financial emergency, the Union executive has power to give directions to any State to observe specific canons of financial propriety as well as directions for the reduction of salaries and allowances of the persons serving in connection with the affairs of a State or the Union including the Judges of the Supreme Court and the High Courts. Article 365 provides that where any State has failed to comply with or give effect to, any directions given in the exercise of the executive power of the Union, it shall be lawful for the President to hold that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution. The consequences of such a situation having arisen are dealt with in article 365 containing provisions for the failure of constitutional machinery in the States.

Zonal Councils. As part of the scheme of reorganisation of the States in 1956, the States and the Union Territories (other than islands) were grouped into the following five zones : (1) The Central Zone comprises the States of Uttar Pradesh and Madhya Pradesh ; (2) The Northern Zone comprises the States of Haryana, Punjab, Rajasthan, Jammu and Kashmir, Himachal Pradesh and the Union Territory of Delhi ; (3) The Eastern Zone comprises the States of Bihar, Nagaland, West Bengal, Orissa, Assam, Meghalaya, Manipur and Tripura and the Union Territory of Arunachal ; (4) The Western Zone comprises the States of Maharashtra and Gujarat, and the Union Territory of Goa, Daman and Diu ; and (5) The Southern Zone comprises of States of Andhra Pradesh, Tamil Nadu, Kerala and Karnataka.

A Zonal Council was established for each of the above zones with effect from 1 November, 1956, with the object of providing a forum for close cooperation amongst the States and the Union Territories included in each zone in respect of matters of common interest to them. The Union Home Minister was nominated by the President as the common chairman of all the zonal councils. Apart from him, the council in each case consists of the Chief Ministers of the states included in the zone along with two other ministers from each State. The Chief Ministers are to function as Vice Chairman of the Council by rotation each holding office for a period of one year at a time. The Union Territories are represented in the Councils by not more than two members from a territory in each case

one of these being the administrator of the territory, the Lt. Governor or the Chief Commissioner, as the case may be. The composition of the Zonal Council also provides for the inclusion of certain official advisers in each council, namely a nominee of the Planning Commission, the Chief Secretaries and the Development Commissioners of the States included in the Zone. These advisers have a right to participate in the discussions of the Council but have no right to vote.

The Zonal Councils are advisory bodies and as such may discuss any matter of common interest to some or all of the parties represented on them. They may advise the Central Government and the Government of each State concerned as to the action to be taken on any such matter. It has been provided that the Zonal Councils may, in particular, discuss and make recommendations with regard to any matter of common interest in the field of economic and social planning or questions like border disputes, linguistic minorities, inter-state transport, or matters arising out of the reorganisation of States. There is a provision for holding joint meetings of two or more zonal councils.

Other Forms of Co-ordination and Cooperation. In the field of regional co-ordination and cooperation new forms of organisations have come into existence. In the year 1950, the Damodar Valley Corporation was set up on the model of the American T.V.A. by a parliamentary statute, with the consent of the two participating States of Bihar and West Bengal. It is not only a policy-making body but also an administrative organisation. The Central Government exercises some amount of control over the corporation, as it appoints its top personnel, prescribes terms and conditions for their service and issues directives on policy matters. In addition to this Corporation, more than a dozen control boards have also been set up. Such a board is constituted under a resolution of the Central (or State) Government. Their constitutions differ slightly, but their functions are more or less the same. Important among them are : Kosi Control Board and the Nagarjunsagar Control Board. Finally, the Central Government constituted in 1965 five Regional Electricity Boards, which function under the control of the Central Electricity Authority. The Central Government exercises influence and inter-Governmental co-ordination through periodical ministerial conferences, policy pronouncements or by giving blue-prints. In the administrative field as in the legislative the larger national interests are carefully sought to be served.

Settlement of River Water Disputes. A major step towards resolution of inter-State river disputes was taken when an agreement on the establishment of a Cauvery Valley Authority by the three

riparian States—Tamil Nadu, Karnataka and Kerala—was reached. The said Authority was visualised as a technical body of representatives of the three States over which a nominee of the Central Government will preside. Its task will be to develop the water resources of the Valley in the optimum manner. The Narmada Water Disputes Tribunal, in its award given in December 1979 allotted 18.25 million acre feet of water to Madhya Pradesh out of a total utilisable quantum of 28 M A F. Gujarat was allotted 9 M A F, Rajasthan 0.5 M A F and Maharashtra 0.25 M A F.

Use of Emergency Powers by the Union Government. Important evidence about Union-State relation is provided by the record of the Union Government's use of its emergency powers. During the national emergency, consequent upon the Indo-Chinese conflict of 1962, the States were directed to pay special attention to the expansion of scientific and technical education ; to introduce double shifts in primary schools ; and to construct consumer stores to prevent rise in prices. It is significant that many of these 'invasions' into States' sphere were made with the State's own agreement. Of the other kind of emergency, resulting in Presidential Rule in a particular State, there had been many examples even before 1970. Of the eight pre-1967 examples four applied to the chronically unstable Kerala. Despite the view of the Constituent Assembly that Presidential Rule should not be evoked simply to resolve a ministerial crisis, most of the proclamations were used for this purpose, so it may be argued that the emergency provisions have been abused. A number of illustrations have been given in Chapter 6.

Governor's Role. The control of the Government of India over the States in the administrative sphere appears to be very effective. The Governor of a State is appointed by the President and he holds office during the pleasure of the President. The Governor is empowered to exercise his discretion ; and he is also authorised to reserve Bills passed by the State legislature for the consideration of the President, who may assent to a Bill or may refuse to assent. The President is authorised to issue directions and orders to the Governor, who is bound to carry them out. The authority conferred on the Governor and Government of India's power to entrust functions to State Government is the strongest weapon in the armoury of the administrative control of the Union over the States. Thus the States can be reduced to the position of mere agents of the Government of India.¹ The Governor, as an appointee of the President in practical

¹T.K. Tope, *The Constitution of India*, p. 383.

terms that of the Union Government—has come to be looked upon as the chief instrument of Centre's alleged conspiracy to topple the non-Congress ministries in the States.

Bureaucracy. It is another institutional area of tension between the Central Government and the States. The points at issue are the neutrality of services and formation of new All-India services. It is being questioned whether the services, which hitherto were called upon to implement the programmes and policies of the Congress Party governments alone, will implement with the same honesty and zeal the policies of the DMK government in Tamil Nadu, the Communist government in Kerala, the Communist-dominated coalition government in West Bengal and, for that matter a government of any other political complexion in any of the remaining States. The bureaucratic context as it developed since 1950 also appears to have lent a dominant position to the Centre through a net-work of institutional complexes, viz., the Planning Commission, the Finance Commission, Zonal Councils and the National Development Council. Thus dominance by the Centre in the bureaucratic context is not confined to the creation of a network of institutions at the apex, but also extends over the institutions supposed to be looked after by the State, through a process of administrative 'directions' and technique of 'grant-in-aid'.¹

Law and Order Situation in the States. In the functional sphere the law and order issue has been the most fertile ground of disputes. The Communist ruled Kerala and the Communist dominated West Bengal UF governments took up cudgels with the Central Government in this behalf. During the Central Government employees strike of September 1968 the Kerala Chief Minister chose to reserve his right to interpreting the 'Essential Services (Maintenance) Ordinance' promulgated by the President, which sought to declare the threatened strike by 2.6 million Central Government employees as illegal. To this the Centre retorted that the Central laws were not open to interpretation by States and that the latter had the constitutional obligation under articles 256 and 257 to enforce within their boundaries the Central laws and directives. Similarly, in regard to the deployment of CRP units in Kerala, it was stated that reports had been received from various Central Government offices in the State that they were afraid that they could not get adequate police protection and cooperation from local authorities. They, therefore, asked for the assistance of the CRP for safeguarding the vulnerable points. This led to arguments on both the sides accusing each other of violating the constitu-

¹A.G. Noorani (ed.) *Centre-State Relations in India*, p. 45.

tional provisions. The Chief Minister had objected to the deployment of CRP units without consulting the State, but the Centre clarified that the Constitution provided that the Union Government could deploy armed police at its discretion without the concurrence of the State Government concerned to protect its installations.

New Precedents. After the Lok Sabha elections of March 1977, the Janata Party formed its government at the Centre. Shortly afterwards the Home Minister advised the Chief Ministers of nine States in the north (which had Congress ministries) to voluntarily resign and allow new elections to be held as the people of those States had completely rejected the Congress Party at the polls. But the Chief Ministers, under the directions of Congress Parliamentary Board, did not accept the advice. Thereafter the Union Government decided to dissolve the State Assemblies and advised the Acting President accordingly. Thus President's rule was imposed in nine States, without any kind of report from the Governors. The Congress Government in 1980 did the same, after its return to power at the Centre.

III. Financial Relations

Constitutional Provisions. The sources of revenue have been distributed between the Union and the States. But the States, in addition to obtaining the entire proceeds from the heads allocated to them, may also get a share in the proceeds of some of the heads of revenue which fall within the jurisdiction of the Union. The main sources of revenue of the Union Government are: customs duties, excise duties, duties on tobacco and all other goods produced in India (except alcoholic liquors, opium, Indian hemp, etc.), taxes on capital value of companies. The Union Government has power to raise money by taxes on items from 82 to 92 as given in the Union List of 7th. Schedule. The main sources of revenue of the States are: land revenue; taxes on agricultural income; duties on alcoholic liquor and drugs; taxes on professions, trades and business; taxes on amusements, entertainment, betting and gambling; stamp duties; taxes on the sale and purchase of goods other than newspapers; taxes on advertisements other than those published in the newspapers, etc. The State Governments have power to raise money by taxes on items from 45 to 63 mentioned in the State List.

Apart from the specific heads of taxation assigned to the Union (for the sake of uniformity), there are taxes whose entire proceeds are handed over to the States and there are certain other taxes which are levied and collected by the Union, but whose proceeds are shared bet-

ween the Union and the States. Firstly, the Government of India levies such stamp and excise duties on medicinal and toilet preparations, as are mentioned in the Union list, but they are collected by the States within which they are levied, except in the Union Territories, where they are collected by the Government of India directly. The proceeds in any financial year of any such duty levied in any State do not form part of the Consolidated Fund of the Union, but are assigned to that State. Other duties and taxes included in this category are duties in respect of succession to property other than agricultural land, estate duty, terminal taxes on goods and passengers carried by railways, sea or air ; taxes on railway fares and freights ; taxes on the sale or purchase of newspapers and on advertisements published therein.

Secondly, there are certain taxes levied and collected by the Union and distributed between the Union and the States, e.g., taxes on income other than agricultural income. Such percentage, as may be prescribed of the net proceeds in any financial year of any such taxes is to be assigned to the State within which that tax is levied in that year, and is to be distributed among those States in such manner and from such time as may be prescribed, by order of the President on the advice of the Finance Commission. Thirdly, there are certain taxes which are levied and collected by the Union and may be distributed between the Union and the State. Union excise duties, other than those on medicinal and toilet preparations mentioned in the Union List, are levied and collected by Union Government, but if Parliament so provides, the whole or part of the net proceeds thereof, shall be distributed among the States in accordance with the law made by Parliament. Fourthly, grants in lieu of export duty on jute and jute products in the prescribed manner are paid out of the 'Consolidated Fund' to the States of Assam, Bihar, Orissa and West Bengal.

Prior recommendation of the President is required for introducing Bills affecting taxation in which States are interested. A Bill or amendment imposing or varying any tax or duty in which States are interested or which affects the principles on which under the foregoing provisions of Chapter I of Part XII, moneys are or may be distributable to States, or which impose a surcharge for the purpose of the Union as aforesaid, cannot be introduced or moved, except on the recommendation of the President.

Grants from the Union to certain States. Parliament may make law to determine sums to be charged on the Consolidated Fund of India as grants-in-aid to the States that may be in need of assistance. Capital and recurring sums may be paid as grants-in-aid to the States

as may be deemed necessary to enable them to meet costs of schemes of development that may be undertaken by the States with the approval of the Government of India to promote the welfare of the Scheduled Tribes and to raise the level of administration of the Scheduled Areas therein to the general level in the State. There is further provision for grants-in-aid to Assam in respect of the administration of tribal areas.¹

Borrowing etc. The Union and the State Governments, subject to limits set from time to time by their respective legislatures, can borrow upon the security of their respective Consolidated Funds. It is further provided that subject to conditions to be laid down by Parliament, Union Government may make loans to the States for so long as limits above-mentioned are not exceeded, give guarantees for loans raised by a State (Article 293).

On the basis of the foregoing, it may be said that so far as the division of financial powers between the Centre and the States goes, the Indian system has possibly more practical rationalism and logic behind it than the system of any other federation. Indians have profited from the experience of other federations so far as the distribution of income-tax is concerned. Moreover, the financial powers in India have been clearly demarcated as laid down in the three lists included in the 7th Schedule. Finally, the provision for a Finance Commission every five years to study the relationship between the financial need and resources of the Centre and the State is a guarantee that the questions would receive independent and regular periodical attention. However, following comments deserve notice: 'While States are weak financially *vis-a-vis* their expenditure responsibilities, the Centre is quite strong. Not only its revenue-raising powers are elastic, being related to the growing sector of industry, commerce, foreign trade etc., the Centre has in its armoury some sources which States do not and perhaps cannot have. A classical example is the use of foreign exchange as a budgetary resource. By virtue of the disparity between the Centre and the States, it appears that our federal set-up is one where the Centre is strong and the States are weak. It is this state of affairs that has given rise to many differences and conflicts between the Centre and the States, often causing tension and strains on the Indian polity.'²

As the share of taxes and duties is inadequate to meet the growing revenue and capital expenditure, the States have had to resort

¹Part XII, Chapter 1 of the Constitution (Articles 268-75)

²A.N. Agarwal, *Indian Economy*, pp. 714-15.

more and more to grants-in-aid and loans from the Centre. There was a growing feeling of uncertainty and indecision, loss of initiative and irritation on the part of the States. While the revenues of the States are declining the responsibilities of the States are actually increasing. The plan outlays are increasing with every five-year plan. A serious complaint of some of the States like Kerala is about the regional imbalance in industrial development. The complaint is that the Centre has not used its fiscal dominance over States to correct regional imbalances. But the State Governments' complaint about the inadequate financial resources and their demand for large taxation powers would sound more responsible if they had fully exploited the resources they command. They are not only reluctant to tax agricultural incomes but have even abolished land levies despite the gaping deficits in their budgets.¹

Finance Commission. At the expiration of every 5th year or at such earlier time as the President considers necessary, he may constitute a Finance Commission, consisting of a chairman and four other members to be appointed by him. Under article 280(3) of the Constitution, the Commission is required to make recommendations to the President in regard to (a) the distribution between the Union and the States of the net proceeds of taxes ; (b) the principles which should govern the grants-in-aid from the Centre to the States ; and (c) any such other matter which the President may deem necessary. The Commission determines its procedure and has such powers in the performance of its functions as Parliament may by law confer on it. The President causes every recommendation made by the Commission together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.²

Reports of Finance Commissions. A generally higher share of divisible Central Revenues accrued to States and Union Territories during the five-year period, according to the decision of the Union Government on the final report of the Fifth Finance Commission. Although the precise financial implications had not been mentioned in the report, it was expected that the States and Union Territories would generally receive more, while backward and strategic border States like Jammu and Kashmir and Nagaland would receive more as grants under the Finance Commission's new scheme of allocation of Central revenues. One of the important recommendations of the Commission was that the Centre should examine the question of levying a tax on advertisements in newspapers, its rate structure and exemptions. The

¹Ruddar Datt and Sundharam, *Indian Economy*, pp. 730-33.

²Articles 280-81.

Government accepted this recommendation also.

The Sixth Commission stressed that even after the huge devolution recommended by it the States would have to strain hard to mobilise additional resources in order to meet Plan requirements. It commented adversely on the reluctance of the States to levy water and power rates at a level which could bring in sufficient funds for re-investment. The Commission recommended the devolution of Rs. 7,099 crores of tax revenue to the States in the Fifth Plan. The Government accepted all the recommendations. The income tax amount assigned to the States which was Rs. 52.7 crores in 1951-52 went upto 359.1 crores in 1970-71. Thus during the period of 20 years, it became almost seven-fold. The Union Government has accepted the Seventh Finance Commission's (appointed in 1977) recommendations that the transfer of funds from the Centre to the States should be more than doubled in five-year period 1979-84 to a total of Rs. 23,062 crores. This measure was likely to leave the States with a net revenue surplus of Rs. 12,409 crores over the five-year period.

'Fiscal powers should be divided between the States and the Centre on purely economic grounds bearing always in mind the need to strengthen the forces of unity and integration. We tend to take it for granted that India is an economic unit A re-allocation of fiscal powers on essentially economic considerations and with a view to strengthen the forces of unity, integrity and development would mean that most major taxes would be allocated to the Centre. The acid test would be whether 'incidence' in the large sense of the word—or rather the economic effects—would be mainly local or would have wider impact. On this test the taxation of agricultural income and wealth, and sales tax of all kinds would need to be transferred to the Centre.¹

The Central government has its own grievances against the States. It claims that the States do not make full use of the taxation powers they have, and cites the abandonment of land revenue and the reluctance to raise and collect land betterment levies. Their penchant for underpricing power, transport and irrigation is another major grievance. Finally, the states have been guilty of increasing government employment recklessly. In the 'seventies, while the Central government created only 400,000 extra jobs, the States added more than two million persons to their pay rolls (the figures exclude the Central and state public enterprises).

The real problem that the Centre and the States face, therefore,

¹S. Bhoothalingam '*Federal Financial Relations*', J.C.P.S., Oct-Dec., 1974, pp. 412-13.

is not how to cut up the revenue cake a little better, but how to increase its size. In this, the Centre is just as much to blame as the States. To begin with, it is not only the States that are guilty of underpricing public utilities. The Centre's record with the railways is every bit as dismal. Price controls have choked production, squeezed profits, led manufacturers to conceal their output and evade excise duties, and held down the yield of ad volarem excise duties. To take cement, for example, if controls are lifted, the market price will probably settle at around Rs. 60 per bag, against the controlled price of Rs. 28. This will double the revenue from excise duties, of which two-fifths will come to the States.¹

IV. Nature of Indian Federalism.

Is the Constitution of India Truly Federal ? Some critics have expressed the view that 'the Constitution is quasi-federal' ; K.M. Munshi, a distinguished jurist and a former Governor of U.P., called it 'a quasi federal Union invested with several important features of a unitary government'. According to Sir Ivor Jennings, a reputed British Constitutional lawyer, 'India has a federation with a strong centralising tendency'. As regards the structure of our Constitution, Dr. Gajendragadkar, former Chief Justice of India, observed that 'though it partakes of some of the characteristics of federal structure, it cannot be said to be federal in the true sense of the term'.

While many have denied any form of federalism in the Indian Constitution, H.S. Nicholas, in an article published in the Australian Law Journal maintained that the Constitution of India was federal. Among the Indian writers D.D. Basu, expressed the view that our Constitution possesses the fundamental elements of a federation, and at the same time possesses some unique features. K. Santhanam was of the opinion that the Indian Union is undoubtedly a federation, although the course of national planning, taking over by the Central Government of the financial burden and the instrumentalities of the Planning Commission, National Development Council and the unified all India Congress Party control of the State and Union Governments have increased central control and direction, converting India, for all practical purposes, into a unitary economic entity. Accordingly, he expresses the view that the fact of economic unification has brought about, what he calls, a kind of paramount federation.²

¹Prem Shanker Jha, *'Centre-State Finances-I. Damage Done by Confrontation'*, Times of India, 11 Jan., 1982.

²M.C.J. Kagzi, *The Constitution of India*, p. 102.

Main unitary factors are : (1) Powers lodged in central organs for resolving many conflicts between Centre and States. (2) A central power to veto state legislation where it is held to be in conflict with national law. (3) Provision of an emergency power under which the Centre might take over administration of defence and foreign affairs. (4) Central capacity for influencing state policy through grants-in-aid and loans. (5) Central monopoly of income-taxes, other than agricultural, and certain excise taxes, as well as customs. (6) A certain small but important civil service common to the States and the Centre. (7) Appointment of Governors by the Centre. (8) A real and strong national aspiration spread throughout the country, although not uniformly present. (9) Extraordinary national leadership focussing in the Prime Minister, and closely related to this factor is the approximating one-party system.¹

In the end, we may reflect as to how far the tendencies towards centralism are desirable. 'Those having almost a sentimental attachment to the sacred doctrine of State autonomy will cry immediate halt to what they might consider to be federal incursions in the domain of State authorities. But the desirability can also be considered from the standpoint of the effect of such tendencies on the promotion of the ends of the Welfare State. There is no gainsaying the fact that but for Central-State partnership in the programme, it would hardly have been possible to bring into existence throughout India an administrative machinery of a Welfare State in action extending right up to the village level with uniformity of pattern and nomenclature comparable in its integrity and pervasiveness and superior in training and equipment, to the law and order or revenue machinery set up by the erstwhile British rulers. 'The pooled experience of all the States is available to every State for it to pick and choose. The Union Government has effectively acted as a purveyor of proved ideas and experiences. As against these gains may be pitted the disadvantages arising out of uniformity and rigidity which exponents of local freedom would doubtless view with dismay, apprehension or even alarm. Nor are these latter utterly unfounded. The blind application of set formulae, schemes and remedies is not an unusual phenomenon. A uniform budget may not meet the needs of every area.'²

¹Paul H. Appleby, *Public Administration in India*, Report of a Survey, 1953, 3-5.

²A.G. Noorani (ed.), *op. cit.*, pp. 26-7.

V. Impact of Party System and Planning

IMPACT OF PARTY SYSTEM

In order to understand the working relationship of our federal system in its proper perspective, it is necessary to know the dynamics of regional and national loyalties. 'Out of the numerous political factors, such as pressure groups, elite groups, political attitude and political movements, party system is probably the most important factor. Often in the federal system the party members operating the governmental structure at the federal level are co-partisans of those operating the structure at the regional level. In such instance, informal party relationships become important for the development and working of the federal system. At other times, the ruling parties at the regional level may be opponents of the party in power at the national level. The rivalry between the parties can be an important factor in determining legislative, administrative and even financial relations between the two sets of government.

The chief features of the party system in India prior to the general election of 1967 was the dominance of the Congress Party at the Centre as well as in most of the States. As a result of a single party being in power both at the Centre and in the States extra-constitutional channels led to a high degree of centralization in the working of federal structure. 'It is contended that the decisive role of the Congress Party "High Command" in the selection of party candidates for elections to Parliament and State Legislatures and its commanding voice in the choice of Chief Ministers, in the formation of State ministries, and in the settlement of disputes between blocs within the States party organization ; and between the legislative and organizational wings of the party at the State level are regarded as indications of the extra-constitutional channels operating to encourage the unitarian tendencies of the Indian federal set-up.¹

Nehru's death brought with it the end of symbolically unified leadership in India's national affairs. With the departure of his firm and strong control, even centralised economic planning exhibited a marked decline in both popular and official support. Even more significantly, the 1967 General Election ended one-party rule and marked the rise of competition between the various parties, factions and regions in Indian politics. The advent of the non-Congress ministries in a number of States changed the situation completely, because the earlier strategy of harnessing the personality of the prime

¹Ranbir Sharma, '*India's Federal Polity and the Party System*', J.C.P.S., July-Sep., 1974, pp. 318-19.

minister to the settlement of disputes between governments - ceased to be effective. The events had profound implications for the Union-State relation. But the Lok Sabha elections of 1971 and elections held for several State Assemblies in 1972 resulted again in the establishment of the old pattern of relationship between the Union and State Governments. The pattern was reflected in the Union-Government's exercise of supremacy over the State Governments.

The domination of the Congress Party continued upto February 1977. The victory of the opposition parties and the formation of the Janata Party Government at the Centre and in many States after the elections in 1977-78 created a new situation. The Janata Government was actually a coalition of many parties, which had adopted a common programme. But the new government was characterised by divided leadership as well as in-fighting. Naturally, it could not be strong like the Congress Party and, therefore, it failed to exercise Central control over the various State Governments. Many State Governments, particularly those of Jammu-Kashmir, West Bengal, Tamil Nadu and Kerala began demanding more and more autonomy. The Janata Government had to resign and for the first time a care-taker government was installed at the Centre under the leadership of Charan Singh. The State Governments enjoyed a short spell of greater autonomy and independence from Central control. The Lok Sabha election of January 1980 and the consequent elections for eight States and one Union Territory Assemblies once again established the domination of the Congress Party under the leadership of Smt. Indira Gandhi.

Party Stands. Bhartiya Jana Sangh was the only all-India political party to have stated in its election manifesto that 'the present Constitution which by calling the Centre as Union and provinces as States has recognised a separate and somewhat sovereign status for the constituent States. 'However, the dilemma of the party was whether to work for its professed aim of transforming the present system into a unitary political system or to contribute to increased autonomy of the States so as to win the confidence of the people at the periphery (e.g. Tamil Nadu, Nagaland, Kashmir) of the political centre,

The Communist Party after complaining that "the constituent States of the Indian Union are denied power, resources and authority which they should have under a federal set-up, went on to declare that the Communist Party firmly stands for wider powers and authority particularly in financial and economic matters, being given to the States of the Indian Union. The Seventh Schedule of the Constitution must be revised and amended to enlarge the powers of the States and abridge those of the Central government." It is rather surprising that

a party which believes in the doctrine of "democratic centralism" should take up the cause of the enlargement of the powers of the States.

The Swatantra and D.M.K. were both determined not only to restore to the States the powers, functions and jurisdiction given to them by the Constitution but also to enlarge it. The Rajamanner Committee and the resolution passed by the D.M.K. Government of Tamil Nadu bear eloquent testimony to such a desire. The Socialists basically believe in the policy of decentralization 'accompanied with coordination' to 'ensure national unity, harmony and progress.' The Shiromani Akali Dal always demanded that the States be given 'more autonomy and more power, particularly in the fields of finance and legislation.' The D.M.K. stands for 'the preservation of State rights without infringement by the Centre.'

Thus three broad positions emerge with regard to federalism in India. They are : (i) status quo, for which the Indian National Congress may be said to stand in the name of 'political stability' and 'strong Centre' ; (ii) Constitutionalism with a strict delineation of roles, but change in the machinery and style of relations between the units and the Centre coupled with the recognition of the need for a strong Centre as propounded by the Congress (O), Swatantra and Jan Sang parties ; and (iii) radical changes including constitutional amendment to provide for an increase in the law-making and administrative powers of the component units as demanded, in varying degrees, by the C.P.I., C.P.M., S.S.P., and D.M.K.¹

IMPACT OF PLANNING

The process of economic planning is another glaring example of a centralising trend in Indian federalism. As Tarlok Singh observes : "National planning widens the role of the Central Government and State responsibilities." Consequently, "there is undoubtedly a very uneasy tension between the centralised decision-making demanded by national, economic and social planning, and the movement for regional autonomy, which have been given momentum by the emerging solidarities of the linguistic groups."²

Since all governmental activity is dependent on access to sufficient funds, fiscal policy is a major instrument of economic and social planning. It is also the *sine qua non* of autonomous activity of local,

¹A.G. Noorani (ed.), *op. cit.*, pp. 42 and 46.

²*Ibid.*, p. 19.

state, or federal agencies. Unlike the old dualistic federalism, however, which placed the emphasis solely on fiscal independence, co-operative federalism requires flexibility and devices for the joint utilization and allocation of fiscal resources. Developing federal countries face the crises of the urban industrial transformation with certain complications. 'On the one hand, their commitment to economic development and nation-building activities heavily favours central planning and direction. A strongly centralised, unitary state would seem to be better suited to rapid development than federal decentralization as long as we take a mechanistic view of modernization. But on the other hand, developing countries face far greater problems of cultural diversity and political disunity which militate against unitarism and even against a decentralized unitarism. . . .'¹

The federal character of the Constitution came to be dissipated when a regular plan-system was super-imposed upon the normal process of Centre-State relationship. Between 1951-52 and 1966-67 centralising trends in Indian federation were powerfully manifest. The Planning Commission has had a controlling influence. We may now give some instances which show encroachment upon State autonomy. Through its Land Reforms Division the Commission used to examine the land reforms schemes of the States before they were introduced in the State legislatures ; the basic principles of local development works programmes were set by the Commission ; and specific schemes of development were approved by the Commission.

Naturally, the Administrative Reforms Commission, while making recommendations on Centre-State relationship in the field of planning, could not overlook the organised opposition of the States to Central control. The Commission recommended that the participation of the Union Ministers in the Planning Commission be discontinued and the Commission be re-constituted as a non-ministerial expert advisory body, bereft of all its functions executive in character. The A R C also recommended the modification of the existing system of grants-in-aid. The Commission observed : 'Hitherto, the grants for individual schemes have been fixed in accordance with pre-determined patterns. We suggest that these patterns be abolished.' The recommendation of the A R C relating to non-ministerial character of the Planning Commission was highly commendable. It served to remove the Commission from the area of political bargaining in regard to the pro-centre bias of the work of the plan-body.

K. Santhanam in his work on this subject wrote : 'The position

¹*Ibid.*, pp. 14-15.

of the National Development Council has come to approximate to that of a super-cabinet of the entire Indian federation, a Cabinet functioning for the Government of India and the Governments of all the States.' It has been analysed how the Community Development Programme had been responsible for unitary trends in our federal system. According to him, the basic decisions in respect of this programme had been taken in the main by the Union Government and made effective by the States with minor alterations. Much of the Central direction in respect of policy matters pertaining to Community Development had been possible, because a substantial portion of the financial burden of the programme was borne at least initially in Stage I and Stage II by the Central Exchequer.

In addition to the above other factors were : (1) Centralised organisation and direction of the training of community development personnel. (2) Annual conferences of Development Commissioners convened by the Ministry of Community Development. (3) Hundreds of books, manuals, pamphlets, reports, and reviews etc. brought out by the Union Government. Above all 'Kurukshetra' and 'Gram Sewak' established themselves as the organs of national thinking on Community Development. (4) Miscellaneous schemes of various sorts, for example, scheme of prize competitions for Village Level Workers, also extended the central influence. (5) Programme Evaluation Organisation under the Planning Commission publishes annual reports which also influence the State administrations of the Community Development Programme.¹

VI. Conclusion

Creation of Inter-State Council Recommended. Quite apart from the task of evolving guide-lines on the manner in which Governors' discretionary powers should be exercised, an Inter-State Council would help not only in serving as a forum in which the Centre-State differences can be aired and resolved but also one in which Inter-State disputes, which in turn impose strains in the relations between the Centre and the States, can likewise be discussed. The Administrative Reforms Commission has recommended that such a Council should consist of the Prime Minister as a Chairman, the Finance Minister, the Home Minister, the Leader of the Opposition in the Lok Sabha, five representatives—one from each Zonal Council. Any of the Union Cabinet Ministers or the Chief Ministers who may be concerned with

¹P.R. Dubhashi, 'Unitary Trends in a Federal System', I.J.F.A., July-Sep 1960, pp. 251-54.

a particular subject may be invited for the discussion when the relevant subject is under consideration. The Commission has recommended that "the proceedings of this Council must be secret." It will be noticed that the Council's powers are purely recommendatory, but there is no reason why recourse to the institution, conceived by the Constitution itself, will not be more effective than the present techniques.

Linguistic Reorganisation of States. The reorganisation of States on a linguistic basis gave rise to some new conflicts and tensions, especially relating to the rights of linguistic minorities, the claims of various States or areas of bordering States, and the role of Hindi as the official language of the country. Another important effect of the reorganisation has been to give States politics a more intensely regional character and to make the States a much more important lever of power.¹

Rajamannar Committee (Tamil Nadu). The Rajamannar Committee has held that articles 256 and 257 regarding the exercise of executive power by the State should be done away with. If for any reason they are retained, directions under them should be issued only after they are approved by the Inter-State Council. The purpose underlying these two articles is that laws made by Parliament should be backed by the executive power of the Union. As Parliament has got the power to make laws for the whole or any part of the territory of India, it follows that it also has powers to do all acts and incidental necessary in order to effectuate the object for which the original power was given.

Other points made by the Rajamannar Committee may briefly be stated as : (i) The financial structure of India is heavily weighted in favour of the centre ; and revenue resources allocated to the States are relatively unimportant and inelastic as a result of which there is a great shortfall between the total expenditure of the States and receipts from taxes and other revenues. (ii) The Council of State does not represent exclusively the federal principle ; it should have equal representation of all States. (iii) Section 92 of the Australian Constitution guarantees freedom of Inter-State trade only, but leaves intra-State trade severely alone. While the power of Parliament under article 302 may remain, there is no point in empowering Parliament to deal with trade and commerce within a State. (iv) The expression "internal disturbance" (in article 352) must be comparable in gravity to the

¹S.A.H. Haqqi, 'The Indian Federal Structure and Indian Unity', in L. M. Singhvi (ed.), *Union State Relations*, p. 200.

repelling of external aggression. The State police should be relied on for maintenance of peace within the State. (v) Grants by the Centre to the States, both for Plan expenditure and non-plan expenditure should be made only on the recommendation of an independent and impartial body like the Finance Commission. The Finance Commission should be a permanent body with its own secretariat. (v) The Planning Commission should be placed on an independent footing on the basis of a parliamentary statute ; and it should consist of only experts in economic, scientific, technical and agricultural matters and specialists in other categories of national activity. Its duty should be to tender advice on schemes formulated by the States.

West Bengal Government Resolution, December, 1977. (1) In a country like India, with such diversities in race, religion, language and culture, national integration can be achieved only through conscious voluntary efforts. Devolution of powers may help ward off fissiparous tendencies instead of encouraging them. A strong and unified India can only be one in which the democratic aspirations and the distinctiveness of the people of the different States are respected and not treated with disdain. However, the word 'Union' should be replaced by 'federal' in the Preamble.

(2) To protect States' autonomy, an amendment to article 248 should be made to the effect that the legislature of a State should have exclusive power to make any law with respect to any matter not enumerated in the Union or Concurrent List, as against the present provision which reserves the right to Parliament. In other words, the residual powers of the federation should lie with the units and not with the Centre.

(3) The role of the Centre should be one of coordination. In areas such as planning, fixing of prices, wages etc., the Centre may not only coordinate but also issue general directions. In the matter of planning and economic coordination, however, the Centre will have to conform to the general guidelines laid down by the National Development Council, in which the States will have representation along with the Centre. This lacuna may be closed by introducing a separate article, which should state clearly that the composition of the Planning Commission will be determined by the National Development Council. Loans and grants for developmental purposes are now the prerogative of the Planning Commission. It thus becomes important that the States have some say in the manner of operation of the Commission.

(4) Industrial power or irrigation schemes which concern more than one State have to be kept in the Union List so that there can be

a common policy and final decision in regard to these multi-State projects be taken by the Union Government, while the execution and implementation should be done through the State Governments. In matters concerning industrial licensing, etc., major modifications in the allocation of powers between the Centre and the States are called for. The Lists in the Seventh Schedule should be reformulated so that the States may be given exclusive power in respect of certain categories of industries.

(5) Articles 356 and 357 which enable the President to dissolve a State Government or its Assembly or both should be deleted. In the case of a constitutional breakdown in a State, provision must be made for the democratic step of holding election and installing a new government as in the case of the Centre. Similarly, article 360 which empowers the President to interfere in State administration on the ground of a threat to financial stability or credit of India should be deleted.

(6) Articles 200 and 201 which empower the Governor to reserve bills passed by the Assembly for President's assent should be done away with. The State legislatures must be made supreme in the State sphere and no interference by the Centre in this sphere should be allowed on any ground.

(7) In order to endorse the principle of equality of the federating units and to protect further erosion of States' autonomy, it is suggested that elections to the Rajya Sabha also should be directly by the people at the same time as the Lok Sabha elections. All States must have equal representation in the Rajya Sabha except those with a population of less than three millions. Both the Houses must have equal powers.

(8) All-India services like the IAS, the IPS, etc., whose officers are posted to the States, but remain under the supervision and disciplinary control of the Central Government, must be abolished. There should be only Union service and State services and recruitment to them should be made respectively by the Union Government and the State Governments concerned.

Observations. Leaving the question of constitutional interpretation aside, it should be noted that the very changes in the political situation, which according to the chief ministers of West Bengal and Jammu-Kashmir warrant greater autonomy for the State, call more than ever for a strong and effective Centre, which plays a dominant but not a domineering role, a true *primus inter pares*. It is a plea for a strong Centre, whatever the composition of the Central Government may be. It should be able to hold the centrifugal forces in

check and should have the constitutional powers to do so. Otherwise, in the present situation, to restructure the federal set-up in the way the Chief Ministers of West Bengal and Jammu-Kashmir want to have, i.e., a weak Centre and strong States, would be inviting the balkanization of this imperfectly united nation. That might suit the interests of some groups, but it would be calamitous for the country.¹

Every right thinking Indian would agree with the above. The Union Home Ministry's document, setting out the Central government's stand on Centre-State relations in general and, in particular, on the official West Bengal memorandum on the subject, made out a reasonable case for maintaining the *status quo*. In the present context, to endorse the demand for major constitutional changes on the lines envisaged in the West Bengal memorandum would be giving centrifugal forces a free rein. This would directly undermine national unity. But there is some substance in the following observations, keeping in view the position that the Centre should be strong but not stronger than envisaged by the framers of the Constitution.

The maintenance of a free and pluralistic society, the formulation and implementation of public policy on a consensual basis can only be assured through a genuine devolution of powers and responsibilities to the lowest levels of governmental organisation through the establishment of a system based on true federal spirit. Federalism in India has undergone far-reaching changes due to a multiplicity of factors—the informal and deliberate modification in the original distribution of powers ; the one-party dominance system for almost three decades ; multiple levels of economic and social development ; and the peculiar ethnic, linguistic, cultural, economic and political characteristics of the constituent states. All these have at various times influenced the development of public policies in the background of opposing forces of centralisation and decentralisation. The evolution of federalism in this country cannot be settled for all times to come or to the maximum satisfaction of each of the constituent units involved.

'The amended Constitution has drastically tilted the balance of power regarding initiation and implementation of public policies in favour of the Centre. The exclusive state legislative powers with respect to (a) public order, police, and deployment of security forces ; (b) administration of justice ; (c) forests ; (d) protection of wild animals and birds ; (e) population and family planning ; and (f)

¹A.S. Abraham, 'Autonomy for States : No Escape from a Strong Centre', *Times of India*, 8 Nov., 1977.

education have been severely restricted. The authority and power of the Union with regard to the defence, the integrity and the unity of the country, suppression of anti-national activity, prevention of secession of any part of the national territory, have greatly enlarged. The sphere of the states' exclusive jurisdiction has been compressed and that of concurrent power with central preferential legislation has expanded. With these new arrangements India has become a completely centralised quasi-federal state. The amendments have certainly transformed the quasi-federal system of India into a more perfect union.¹

Consultative bodies. These are mostly ad hoc ones although a few like zonal councils are statutory in origin and at least three of them—the National Development Council, the Central Council of Health and the Central Council of Local Self-Government. These conferences take place at political, administrative and professional levels. The conferences at the administrative level include the chief secretaries' conference and the conferences of various functional secretaries. The conference on Irrigation and Power attended by state government engineers and heads of river valley projects and the conference of Vice-Chancellors are among the conferences held at professional level although the first one does not fall within the executive branch of the Government.² At the highest level of the Governors' conference, the broad impact of the national policies on the Centre and the States is discussed. Governors' conferences are non-political and non-partisan and are concerned with the fundamental objectives as laid down in the Constitution.

Recommendations of the Administrative Reforms Commission (A.R.C.). In its report on Centre-State Relationship presented to the Government of India on 19 June 1959, the A.R.C. stated that the existing provisions of the Constitution are adequate to meet any situation or to resolve problems that may arise as a result of the change in the political pattern brought about by the last general election and the mid-term polls. In his letter to the Prime Minister, the A.R.C. Chairman added : 'It is not in the amendment of the Constitution that the solution of the problems of the Centre-State relationship is to be sought, but in the working of the provisions of the Constitution by all concerned, in the balanced spirit in which the founding fathers intended them to be worked.'

¹R.B. Jain, *Federalism in India : Emerging Pattern and Public Policy*, J.C.P.S. Jan.-March, 1978, p. 11.

²S.R. Maheshwari, *The Centre-State Consultative Machinery in India*, I.J.P.A. July, 1970, p. 35.

An important recommendation of the A.R.C. related to the establishment of an Inter-State Council under article 263 of the Constitution. On the Centre's role in matters relating to law and order, the A.R.C. said that the Army, Navy, Air Force or any other armed force might be deployed by the Centre in any State either at the instance of the State Government or by the Centre of its own accord. The Commission also recommended that powers should be delegated to the maximum extent to the States with regard to their work on projects in which the Centre is directly interested or which are carried out by them as agents to the Central Government. After having examined the conflict between the Centre and the States on the distribution of powers and resources in the Union, the Commission expressed the opinion that centralized planning had tended towards excessive interference in the freedom of States to work out their policies and programmes.

CHAPTER 12

Indian Judiciary

Even under the federal Constitution of India, our judiciary, unlike that of the United States, is integrated. There is only one chain of courts, with the Supreme Court at the apex. Indian judiciary is also independent, as it should be, under the supremacy of the Constitution. But the Indian legal system is based on the British system, which ensures rule of law. One other feature to be noted here is that the Supreme Court and the High Courts have the powers of judicial review and protection of fundamental rights of the citizens.

I. The Supreme Court

The Constitution. Originally, the Supreme Court consisted of 1 Chief Justice and 7 other Judges. In 1956, the Parliament passed the Supreme Court Number of Judges Act, which raised the total strength to 11. The Supreme Court Number of Judges Amendment Act 1960 further raised the strength of the Supreme Court Judges to 14 including the Chief Justice. Again in December 1978, the Lok Sabha passed a Bill to further increase the number of Judges from 13 to 17. A person to be appointed a Judge of the Supreme Court must : (i) be a citizen of India ; (ii) have been for at least 5 years a Judge of the High Court or of two or more such Courts in succession; or an advocate of a High Court or of two or more such Courts in succession for 10 years, or a distinguished Jurist. A Judge of the Supreme Court is appointed by the President in consultation with such of the Judges of the Supreme Court and of the High Courts in the States, as the President may deem necessary for the purpose. In the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India has to be consulted. In practice, the appointment of the Chief Justice of India as well as of the other Judges is recommended by the Home Ministry. Actual (or formal) appointment is made by the President on the advice of the Prime Minister. The Chief

Justice and the other Judges hold office until they attain the age of 65 years. The age of a Judge is to be determined by such authority and in such manner as Parliament may by law provide.¹

Judges are paid such salaries as have been specified in the Second Schedule : the Chief Justice Rs. 5,000 and other Judges Rs. 4,000 per month. Every Judge is entitled to such privileges and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament. The privileges and allowances of a Judge and his rights in respect of leave and absence or pension cannot be varied to his disadvantage after his appointment. A Judge may resign his office by writing to that effect to the President. He can be removed from his office by an order of the President passed after an address from each House of Parliament, (supported by a majority of the total membership of that House and by a majority of not less than 2/3rds of the members of that House present and voting) has been presented to him for such removal on the ground of proved misbehaviour or incapacity. When the office of the Chief Justice is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, such duties are to be performed by such one of the Judges as the President may appoint for the purpose.

If at any time there should not be a quorum of the Judges available to hold or continue any session of the Court, the Chief Justice may, with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned, request the attendance at the sitting of the Court, as an *ad hoc* judge, for such period as may be necessary, of a High Court Judge duly qualified for appointment as a Judge of the Supreme Court. The Chief Justice may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or High Court and is duly qualified for the post to sit and act a Judge of the Supreme Court. Every such person so requested, while so sitting and acting, is entitled to allowances as the President may determine. The Supreme Court is a court of record and has all the powers of such a court including the power to punish for contempt of itself. The Supreme Court sits in Delhi, but may sit in such other places, as the Chief Justice may, with the approval of the President, from time to time appoint.¹

Officers, Servants, Rules etc. Officers and servants of the Court are appointed by the Chief Justice in consultation with the

¹Article, 125-30.

Union Public Service Commission. Their conditions of service are prescribed by law of Parliament and by the rules made by the Chief Justice. The Supreme Court (Conditions of Service of Staff) Rules were made by the Chief Justice with the approval of the President in 1951. The principal officer of the Court is the Registrar, who exercises such functions as are assigned to him under the Rules. The administrative expenses of the Court including the salaries, allowances and pensions of its officers are declared to be a charge on the Consolidated Fund of India, and, therefore, are not votable in Parliament. The Supreme Court has wide rule-making powers in order to regulate its own procedure. Cases involving interpretation of the Constitution are decided by a Bench of not less than 5 Judges ; other cases may be heard by single Judges. All judgments are given by majority vote, but differing Judges can give dissenting opinions. The trial is open and judgments are delivered in the open court. In the early days of its working all the Judges constituting a bench used to deliver their separate opinions in all important cases, especially involving constitutional issues. But now the practice of delivering a judgment of the Court has developed.

POWERS AND JURISDICTION OF THE COURT

The Supreme Court is the highest court of the land and the federal judiciary. The Constitution has assigned it three roles : (1) it is a federal machinery of arbitrament in cases or disputes between the Union of India and one or more of the States ; (2) it is the Court which interprets the Constitution in the most authoritative manner ; and (3) it is the highest court of appeal. Its writs and decrees run throughout the country, and bind all authorities—civil and judicial.

Original jurisdiction. The Supreme Court has, to the exclusion of all other courts, an original jurisdiction in any inter-Governmental dispute involving any question of law or fact on which the existence, or extent of a legal right of the Union or any of the States depends. It extends to a dispute between : (a) the Union of India on the one hand and one or more States on the other ; or (b) the Union of India and any State or States on one side and one or more States on the other ; or (c) two or more States. Any dispute which involves a question of law or facts affecting some legal right, or recognised *inter se* interests of any of these parties can be a subject-matter of a suit. The legal right which a State, or the Union may seek to enforce against each other may relate to questions of the extent and scope of

respective legislative and taxing powers, questions of boundaries of two or more States and the Union Territories, matters of property belonging to the States and the Union, and the health and welfare of residents of the States and the Union Territories, etc. These may further relate to matters concerning the State enterprises, public roadways, mines and minerals.

Appellate Jurisdiction. It extends to the following amongst other matters : (i) constitutional matters, questions of law as to the interpretation of the Constitution ; (ii) civil matters ; (iii) criminal matters ; and (iv) other matters. In respect of the first category, the Court has appellate jurisdiction in all cases—civil, criminal or others—in which any matter involving a question of interpreting a constitutional provision arises. An appeal to the Court lies from any judgment, decree or final order of a High Court passed in any proceedings—civil, criminal or other in which any constitutional matter is raised. A matter of constitutional law can also be brought before the Court under article 133 (2) on the basis of a certificate of fitness in a civil matter. Under articles 132 and 133 (2) the Court has been given power to interpret the constitutional provisions.

A proceeding taken for enforcement of a civil right is a civil proceeding irrespective of the special character of the tribunal, or any extraordinary circumstances in which it arises. Proceedings arising out of an election petition, a writ petition against an order of the administrative authorities are civil proceedings. Appeals in civil matters lie to the Supreme Court from the judgments, decrees or final orders of the various High Courts under article 133. In civil proceedings, as in others, appeals can also be filed in the Court under articles 136 by special leave of the Court. In the course of hearing of an appeal any new point may be raised ; and the Court at its discretion may allow such a point.

In criminal cases an appeal lay from any judgment, final order or sentence of a High Court only in the following circumstances : (i) where the High Court had reserved an order of acquittal passed by the Court below (i.e. Sessions Court) and passed a sentence of death on the accused ; or (ii) where the High Court, having withdrawn a case from any subordinate court, had tried it and passed a death sentence upon the accused ; or (iii) where the High Court had granted a certificate that the case was fit for appeal in the Supreme Court¹. This Jurisdiction has been enlarged by the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970. Without prejudice to the

¹Article 134.

powers conferred by clause (1) of article 134, now an appeal also lies, if a High Court sets aside an order of acquittal of an accused person and sentences him to imprisonment for life or to imprisonment for not less than 10 years. The Court does not interfere with the findings of fact. An appeal is made by means of a petition accompanied by a certified copy of the judgment, order or sentence appealed against.

Other Appeals. Appeals in criminal matters can also be filed under article 136 (besides article 134) against the decision, order or sentence passed by any criminal court. The appellate jurisdiction under article 136 is very wide, and is not limited ; it can at its discretion grant a special leave to appeal from any determination, direction or award of any administrative tribunal. This jurisdiction has been held to extend over the All India Industrial Tribunal (Bank Disputes), Election Tribunals, Income Tax Appellate Tribunal and many others, to the exclusion only of the military tribunals and courts martial. However, the Supreme Court does not grant special leave to appeal unless there are some special reasons and circumstances warranting the exercise of an overriding *supervisory* jurisdiction by it. Article 136 confers no right of appeal on anyone ; it provides merely for a discretionary power of the Supreme Court to grant special leave in grave cases of miscarriage of justice. The Court can also review its own judgment given in any case.

Advisory Jurisdiction. Under article 143 the President can ask the Supreme Court to give its opinion in respect of a question of public importance. The questions referred to the Court for its opinion may be questions of law or fact or both, provided if they are referred to the Court they must involve some issue of public importance. Gajendragadkar C.J. observed in the Special Reference No. 1 of 1964 as follows : “ . . . When a reference is received by this Court . . . this Court may, in a given case, for sufficient and satisfactory reasons, respectfully refuse to make a report containing its answer on the question framed by the President ; such a situation may perhaps arise, if the questions formulated are purely socio-economic or political questions, which have no relation whatever with any of the provisions of the Constitution, or otherwise have no constitutional significance.” A reference is heard by a bench of five or more Judges. The Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

The President may also invite the opinion of the Court on any matter which causes a dispute between the Centre and State. The

opinion of the Supreme Court is, of course, not binding on the President. Since the Constitution came into force, the President has referred several questions to the Supreme Court for opinion. The Kerala Education Bill, the Indo-Pak Agreement on the Beru-Bari Union, and the State Laws Case.¹ Opinion of the Supreme Court may also be sought on any dispute between organs of Government at the Centre or in the States. On 26 March 1964 the President referred to the Court under article 143, the situation arising out of the conflict of powers between the U.P. Legislatures and the State High Court. The Union Government, through the President of India on 22 April 1981, sought advice of the Supreme Court regarding the Court's own powers to pass interim orders directing payment of bonus to employees under the settlements with the unions even when the Court was hearing the constitutionality of LIC Act, which prohibited such payment.

Conclusion. From the foregoing analysis it will be seen that the Supreme Court is not a Court of General Appeal from the State High Courts in India. Both its original and appellate jurisdictions are limited. The writ jurisdiction is also limited as compared to such jurisdiction of the State High Courts under article 226. The Supreme Court also has no power like that of the State High Courts, under article 227 of the Constitution. The Supreme Court again has no administrative control over the State High Courts. However, the Supreme Court is the final interpreter of the Constitution of India. Within the limits laid down in the Constitution, it can declare whether a law is *ultra vires* or not.

The confines of these limits are : (a) no law, laying down the procedure for arrest or detention of individuals, can be challenged by the Supreme Court ; but if any particular provision in these laws is inconsistent with any provision of the Constitution itself, it can be declared void ; (b) no law laying down any principle of compensation in the acquisition of property by the States can be challenged in the Supreme Court on the ground that the compensation is unjust, unreasonable or insufficient ; and (c) some other matters have also been placed beyond the jurisdiction of the Supreme Court. No law relating to the delimitation of the constituencies or allotment of seats to those constituencies can be questioned before the Supreme Court (or other courts). 'Subject to the above limits, the Supreme Court has the power of judicial review. In fact the jurisdiction and powers of the

¹The President referred the Jammu and Kashmir Resettlement Bill in October 1982 for opinion of the court on its constitutional validity.

Supreme Court of India are wider than those exercised by the highest Courts of U.S.A.’¹

Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers, not inconsistent with any of the provisions of the Constitution, as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under the Constitution. Subject to the provisions of any law made in this behalf by Parliament, the Court has, as respects the whole of the territory of India, all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself. All authorities, civil and judicial, are required to act in aid of the Supreme Court. Special provisions as to disposal of questions relating to constitutional validity of laws, contained in article 144 A were inserted by the 42nd amendment. But those provisions were later deleted by the 43rd amendment of 1977.

II. State Courts

High Courts. Each State has a High Court, which is also a court of record, with powers of such a court including the power to punish for its own contempt. A High Court consists of a Chief Justice and such other judges as the President may from time to time determine to be necessary, but not exceeding the maximum fixed for each such Court by the President. Every such judge is appointed by the President, after consultation with the Chief Justice of India, the State Governor and in the cases of the Judges other than the Chief Justice, the State Chief Justice. Each judge holds office until he is 62 years old (under the amended provision). However a judge (i) can resign his office by addressing the President in writing ; (ii) may be removed by the President on any of the grounds mentioned for the removal of a Judge of the Supreme Court ; and (iii) may vacate his office on being appointed by the President as a Judge of the Supreme Court on transfer as Judge to another High Court.

A person is not qualified for appointment as a judge of High Court unless he is a citizen of India and (i) has for at least 10 years held a judicial office in the territory of India ; or (ii) has for at least 10 years been an advocate of a High Court in any State or of two or more such Courts in succession. Every person appointed as a judge of High Court in a state before he enters upon his office, makes or

subscribes before the Governor of the State, or some person appointed by him in that behalf an oath or affirmation according to the form set out for the purpose. A High Court judge is paid a salary of Rs. 3500/- per month, and the Chief Justice is paid Rs. 4000/-. The allowances and other rights as to leave and pension cannot be varied to the disadvantage of any judge. The High Court Judges (Conditions of Service) Act, 1954-58 lays down the leave rules and makes provisions for the provident fund as well as retirement benefits. A judge cannot be dismissed, because like a Supreme Court Judge he does not hold office during the pleasure of the President. He may be removed in the same way as a Judge of the Supreme Court on the ground of proved misbehaviour after representation made by each of the two Houses of Parliament to the President, by order.

The President may, after consultation with the Chief Justice of India, transfer a judge from one High Court to any other High Court within the territory of India. When the office of Chief Justice of a High Court is vacant for any reason, the duties of the office are performed by such one of the other judge of the court as the President may appoint for the purpose. The Chief Justice of a High Court for any State may at any time, with the previous consent of the President, request any person who has held the office of judge of the Court or any other High Court to sit and act as a judge of the High Court for the State, and every such judge is entitled to such allowances as the President may by order determine.¹

Jurisdiction of High Courts. Ordinarily the territorial limits of the jurisdiction of a High Court coincide with those of the State in which it is situated ; but Parliament may by law extend the jurisdiction of a High Court or exclude the jurisdiction of a High Court from any State other than the States in which the High Court has its principal seat. The jurisdiction of the law administered in and the respective powers of the judges etc. of the existing High Courts, are those enjoyed by them before the commencement of the Constitution. However, restriction to which the exercise of original jurisdiction by any of the High Courts in respect of any matter concerning revenue or collection thereof was before the commencement of the Constitution, is not to apply after the commencement of the Constitution, i.e. the restriction that the original jurisdiction of a High Court does not extend to matters of revenue or its collection has been removed.

A High Court has power within its territories to issue directions, orders or writs, in the nature of habeas corpus, mandamus, prohibition, quo-warranto, and certiorari or any of them for the

enforcement of the rights conferred by the Constitution on citizens (in Part III) and for any other purpose. The jurisdiction and power in this respect are exerciseable without any consideration being shown to the past practices, restrictions and qualifications. The writs can be issued for the enforcement of the fundamental rights or any other right. There are only two limitations placed upon the exercise of the writ jurisdiction by a High Court. One, the writs issued by the High Court cannot run beyond the territories subject to its jurisdiction. The other limitation consists either in the requirement that the person and authority to whom the High Court is empowered to issue the writ must be amenable to its jurisdiction by residence or location within the territories of the States, or alternatively, the cause of action should have arisen within the territories of the State. The provisions of article 226 are very widely worded, and confer large amount of discretion on the High Courts. The power to issue directions and orders in the nature of the writs is largely discretionary and wide. It is confined to the issue of certain specified writs, namely, writs of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*.¹

The High Court has powers of superintendence over all state courts ; it may (a) call for returns from such courts ; (b) make and issue general rules and prescribe forms for regulating the practice and procedure of such courts ; and (c) prescribe forms in which books, entries and accounts are kept. This power of superintendence does not extend to any court or tribunal constituted by or under any law relating to the Armed Forces. It is further provided that a High Court on being satisfied that a case involving a substantial question of law as to interpretation of the constitution is pending in any subordinate court can (a) either dispose it off or (b) determine the said question of law and return the case to the court below for determination of the case in conformity with judgment of the High Court.²

Appointments of officers and servants, are made by the Chief Justice or such judge or officers as he may direct. However, in the case of appointment of persons not attached to such courts, the Governor of the State may by rule require that appointments shall only be made after consultation with the State Public Service Commission. Conditions of service of such officers are prescribed by the Chief Justice or any other Judge or officer authorised in this behalf, but these are subject to any law made by the State Legislature. Rules relating to salaries, allowances, leave or pension are subject to the

¹M.C.J. Kagzi, *The Constitution of India*, pp. 280-84.

²Articles 225-28.

approval of State Governors. Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union Territory. Parliament may by law also establish a common High Court for two or more States or two or more States and a Union Territory.¹ The Punjab High Court has jurisdiction over the States of Punjab and Haryana ; and the Assam High Court has jurisdiction over the States of Assam, Manipur, Meghalaya, Nagaland and Tripura. Parliament may by law constitute a High Court for a Union Territory or declare any court in any such territory to be a High Court for all or any of the purposes of the Constitution. Every High Court exercising jurisdiction immediately before the commencement of the Constitution (Seventh Amendment) Act 1956, in relation to any Union Territory continued to exercise such jurisdiction in relation to that territory after such commencement.²

Subordinate Courts. Appointment, posting and promotion of district judges is made by the State Governor in consultation with the State High Court. A person not in the service of the State or Union, is not eligible to be appointed a district judge, unless he has for not less than 7 years been an advocate or a pleader and is recommended by the High Court. Judicial officers other than district judges are to be appointed by the Governor in accordance with Rules made by him after consultation with the State Public Service Commission and with the State High Court. Control over district judges, promotion of subordinate judges, grant of leave etc. is also vested in the High Court. In the foregoing 'district judge' includes judge of a city civil court, additional district judge, session judge, chief presidency magistrate, etc.

In each district (or group of districts) there is the District and the Session Court headed by the District and Sessions Judge. There may be one or more additional district and sessions judges in a big district. On the civil side below the district court are the courts of civil (or subordinate) judges and under them the munsifs' courts. In addition to these at some district head-quarters there are the small causes courts. On the criminal side below the sessions court there are the courts of 1st, 2nd and 3rd class magistrates. The district magistrate and sub-divisional magistrates are first class magistrates. At the lowest level the magistrates performed administrative as well as judicial functions simultaneously. This defect has now been removed in almost all the States. Besides the civil and criminal courts there are the

¹Article 230 and 231.

²Article 241.

revenue courts as well. The district magistrate also decides revenue cases. Under him are the courts of tahsildars and above him the Commissioner hears appeals. At the top there is the Board of Revenue for deciding appeals.

III. Judicial Review and Parliament

Judicial Review. The courts in a federal constitution are very rightly regarded as the guardian of the constitution and protector of the rights of individuals. Judicial review is the corner-stone of constitutionalism, which implies government.¹ The Constitution of India is federal; as such it is the supreme law of the land. It divides the legislative powers between the Union Parliament and the State Legislatures. The Supreme Court and the High Courts, therefore, see to it that no government oversteps its authority. In a democracy public opinion is passive, and in India it is still worse and that is all the reason why it is imperative that judiciary should come to our rescue. Otherwise... the constitution becomes ill-balanced and leans heavily on executive supremacy and tyranny of the majority, and that was not the intention of the makers'.²

The Constitution of India divides the legislative powers between the Union Parliament and the State Legislatures. In this connection reference may be made to articles 246, 248, 249 and 250, which deal with subject-matter of laws made by Parliament and by the Legislatures of the States. Our Constitution also contains express provision for judicial review of legislation as to its conformity with the Constitution. Article 13(2) says : The State shall not make any law which takes away or abridges the rights conferred by Part III and any law made in contravention be void. Article 32(1) further provides for the right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by Part III of the Constitution.

Some Cases. In the famous case *Gopalan v. State of Madras* 1950 the counsel for the accused argued that "according to procedure established by law" was the same as "due process of law". But the Attorney-General appearing for the Union of India submitted that the guarantee of procedure established by law was a protection of 'nothing more than procedure prescribed by any law made by a competent legislature.' Agreeing with the latter view the Court decision defined the procedure established by law clause and gave the scope of personal liberty in the country. *The Searchlight case* 1959, dealt with

¹S.C. Dash, *The Constitution of India : A Comparative Study*, p. 334.

²K.V. Rao, *Parliamentary Democracy in India*, p. 213.

the important issue of curtailment of a citizen's fundamental right of speech and expression, coming in the way of the exercise of a parliamentary privilege. The question whether the liberty of press in its widest aspect was covered by the freedom of speech and expression guaranteed by that article and the press had, therefore, the right of free propagation and free circulation, without any previous restraint on publication."

An interesting decision in which the court had occasion to deal with the rights both under article 19(1)(a) and (b) was *Kameshwar Prasad v. State of Bihar* case, 1962. A rule in the Bihar government servants' conduct code said that no government servant could participate in any demonstration or resort to any form of strike in connection with any matter 'pertaining to his conditions of service.' The validity of this rule was questioned on the ground that it offended the public servant's right of freedom of speech and expression as well as the right of assembling peacefully and without arms. The Court held the rule to be void in so far as it prohibited any form of demonstration, even so innocent an act as was incapable of causing a breach of public tranquility. But the Court made it clear that demonstrations taking disorderly forms would not be protected.¹

So far as the fundamental right to property is concerned, the Judgment of the Supreme Court in *Golak Nath's* case, 1967 is the most important. In that case Subba Rao, C.J. opined that wiping out proprietary rights by amending the Constitution amounted by implication to a revolution. The Judgment enunciated the doctrine that fundamental rights contained in Part III of the Constitution of India were 'immutable and beyond the reach of Parliament.' The references in this Judgment to 'totalitarianism' and 'revolution' hint at the kind of social order which they prefer or prefer to read into the Constitution. "There is nothing to choose between destruction by amendment or by revolution," they wrote, "the former is brought about by totalitarian rule, which cannot brook constitutional checks and the other by discontent brought about by mis-rule. If either happens, the constitution will be a scrap of paper." If they implied, as they presumably did, that the amendments to the right to property were the manifestations of totalitarian mentality, then they were grossly unfair to Nehru and Congress Party.²

The Judgment led to a serious and long-drawn controversy between the protagonists of fundamental rights and the advocates of

¹M.C. Setalvad, *The Indian Constitution*, p. 73.

²Shiviah, *Judicial Review, Right to Property and Constitutional Amendment*, I.C.P.S., Jan-March, 1971 p. 99.

socialism keen on implementation of directive principles of state policy. The Court had suggested that an alternation of fundamental rights could be made by convening a new Constituent Assembly outside the framework of the present Constitution, but it was doubtful if the proceedings of the new Constituent Assembly could have any legal validity for the simple reason that if the Constitution provided for its own method of amendment, any other method of amendment of the Constitution would have been unconstitutional and void. Moreover, if a law made by Parliament to amend Part III in the exercise of its residuary power and in compliance with article 368 was to be void as contravening article 13(2), a law passed by the same Parliament convening a Constituent Assembly and authorising that body to do that very thing which Parliament itself could not do would have been unconstitutional. Therefore, a Constituent Assembly would have been either legally impossible or wholly unnecessary.¹

Since Parliament was considered to have no power to take away or curtail any of the fundamental rights, even if it became necessary to do so far giving effect to the directive principles of state policy and for the attainment of the objectives set out in the preamble to the Constitution, it amended article 368 and article 13. The 24th amendment provided that Parliament is competent to amend the Constitution including Part III. In the *Bank Nationalisation Case* 1970, the Supreme Court had held that the Constitution guaranteed right to compensation, that is, the equivalent in money of the property compulsorily acquired. Thus, in effect, the adequacy of compensation and the relevancy of the principles laid down by the Legislature for determining the amount of compensation had virtually become justiciable in as much as the Court could go into the question whether the amount paid to the owner of the property was what might be regarded reasonable as compensation for loss of property. The 25th amendment surmounted the difficulties placed in the way of giving effect to the directive principles of state policy by the aforesaid interpretation. Firstly, it amended clause (2) of article 31; it thereby substituted the word 'amount' for the word 'compensation', and added the words 'that the whole or any part of such amount is to be given otherwise than in cash'. Secondly, it inserted clause (2B) in article 31. Thirdly, it inserted a new article, 31-C.

But we are inclined to agree with the following observation : the Supreme Court has tried to give expression to the spirit of social welfare and social justice in determining questions of wages, bonus

¹H.M. Seervai, *Constitutional Law of India : A Critical Summary*, p. 1109.

or other amenities. Secondly, on questions pertaining to the disciplinary powers of the management, the Supreme Court has consistently declined to interfere with the decision of the management unless it was found that there was want of bonafides, a breach of natural justice or victimization. The dominant trend in the Court has been that the employer is the best judge of discipline in an establishment and that the Industrial Tribunal cannot sit in appeal in such matters. Thirdly, in other than economic and social matters, a trend in the Supreme Court of India has been its readiness to reverse its earlier decisions. This tendency has been quite marked ever since the judgment in the case of *Bengal Immunity Company v. the State of Bihar*. Connected with this trend has been the tendency of the Court to argue the question decided in an earlier case afresh. The Court has also tended to permit question of facts to be reopened before it and in one or two cases even an affidavit had been allowed to be filed.¹

In the *Keshavananda* case the petitioners challenged the constitutionality of the Twenty-fourth Amendment on the ground that the said amendment could not authorise Parliament to damage or destroy or to alter all or any of the essential features, basic elements and fundamental principles of the Constitution. Five justices were clearly of the view that the amending power under our Constitution is not unlimited, and that there are inherent and implied limitations arising from the basic structure of the Constitution.² The Supreme Court's decision in *Keshavananda Bharati v. State of Kerala* has shown us the new horizon of judicial review. . . . This decision circumscribed the power of Parliament to amend the Constitution and since what the basic structure is, has not been defined, the basic structure is that which the Court, will define from time to time.' But between the Court and Parliament the latter must be the final determiner of what the Constitution must contain. When, therefore, the Supreme Court held in *Golak Nath vs. State of Punjab* that Parliament did not have the power to take away or abridge the fundamental rights through constitutional amendment, juristic opinion was almost unanimously against the decision. However, the fundamental difference between *Golak Nath* and *Keshavananda* was that in the former, only fundamental rights were excluded from the reach of constitutional amendment, whereas in the latter, a more

¹M.G. Gupta, *op. cit.*, p. 261.

²See A. Lakshminath 'Justiciability of Constitutional Amendments' in Rajeev Dhavan (ed.), *Indian Constitution : Trends and Issues*, p. 157.

nebulous restriction in the nature of unspecific 'basic structure' was imposed on Parliament's power of constitutional amendment.

The Supreme Court's judgment striking down some sweeping provisions of the Constitution (42nd Amendment) Act, 1976 was widely welcomed when it was delivered on 9 May 1980. Its soundness has now been underscored by the detailed reasons which the Court has given in support of its verdict that Parliament's powers to amend the Constitution are neither unlimited nor beyond judicial review and that Directive Principles cannot have primacy over Fundamental Rights. 'As the majority verdict has underlined, the Constitution as it stands is no barrier to the promotion of social justice. No law which introduces agrarian reforms or promotes distributive justice or prevents concentration of wealth can be declared void on the ground that it violates Fundamental Rights under article 14 (equality before law), article 19 (personal freedom) and article 31 (property rights). No one has so far substantiated the contention that the Constitution as it exists is a barrier to social change. Indeed the sad truth is that agrarian and other reforms have remained a dead letter not because of constitutional obstruction or judicial obduracy in interpreting the law in favour of the vested interests but because of the crass failure of politicians and bureaucrats to implement laws upheld by the courts. Nothing will, therefore, be gained by once again creating an atmosphere of confrontation between the legislature and the judiciary over what is essentially a non-issue. A balance between the powers of the legislature, the judiciary and the executive—which the founding fathers of the Constitution provided for and the Supreme Court's judgment has restored—should be accepted with good grace'.¹

IV. Critical Observations

Independence of Judiciary. The Constitution has necessary provisions in this respect. It provides that the Chief Justice and other Judges of the Supreme Court (and High Courts) hold their office during good behaviour, and not during the pleasure of the President. They cannot be removed from their respective offices except on the ground of proved misbehaviour or incapacity in accordance with the constitutionally prescribed procedure. The salaries of the Judges are fixed and are made a charge on the respective Consolidated Funds. It is further provided that a Judge should, before he enters into his office, take an oath or affirmation or should subscribe to bear true faith and allegiance to the Constitution. To enable him to act

¹Times of India, editorial, 5 Aug., 1980.

according to his resolve in relation to his judicial duty and conduct he is not criticised both in Parliament and outside in the public. In September 1982, a demand for an amendment of the Constitution to provide for an independent body to probe charges of corruption in the higher judiciary, was made at a meeting of the consultative committee of members of Parliament attached to the Ministry of Law, Justice and Company Affairs. The Government rejected the demand, the Law Minister pointed out that there was need for such an amendment, as the provisions in the Constitution for removal of the judges were adequate. Finally, the officers and servants of the Supreme Court are appointed by the Chief Justice in consultation with the Union Public Service Commission.

There is unanimity of opinion on the point that judges should be above all politics. In answer to a question Justice H.R. Khanna said : 'The Constitution is our supreme authority and it is to the Constitution and not to the ruling party that the judges should owe allegiance. We have in our Constitution opted for a democratic set-up. . . . If judges are committed to the ideology of the ruling party, the commitment is bound to be reflected in their judicial pronouncements while construing the provisions of the Constitution and the law. It would be a sad day for the judiciary if the judicial interpretation of a constitutional or a legal provision were to change with a change of the ruling party.'¹

But while one view is that the judiciary is committed to a defence of the prevailing liberal values, the other view is that the judiciary is being made to measure. Mukhopadhyay writes : '... in a class society, the judiciary like any other political institution is objectively committed to a defence of the values that dominate the ideological superstructure. This so happens, because the judiciary being the organic part of the structure of political power, the class-commitment of the power-structure objectively conditions the 'independence' of the judiciary. Thus, the recruitment of the judges, the established principles of law which the judge is supposed to follow ungrudgingly, the procedural rules of justice, the language of the Court—everything is objectively geared to a defence of the values that are cherished and encouraged by the ruling class that is in power.

'The conservative tradition of the schooling of the judges of the Court has been corroborated by two Indian scholars, G.S. Sharma

¹H.R. Khanna, '*Judges should be above all Politics*,' Illustrated Weekly, 11 Dec., 1977.

and Phiroze K. Irani. Both agree that the judges have been nurtured in the common law ideals of the individual sanctity of private property and isolation of judiciary from the main stream of social life. The logical [consequence of the conservative schooling of the Supreme Court has been the interpretation of the Constitution or a statute in a spirit of either narrow legal formalism in the name of legal objectivity or subjectivism, stretched sometimes to unusual length.”¹

The lesson of all this surely is that the judicature should take special care not to have to take into reckoning, in the course of their adjudication, anything other than the law of the land, to beware of being involved in any thing that requires a political judgment or a political decision, and to leave it to the politicians, the law-makers, the executive to deal with political issues instead of trying to do it for them however deep the judge’s own social and economic views. ‘In the final analysis, anything that imposes an external judgment upon these matters is politically dangerous to the institutions of governance including the judicature in their proper functioning, and even in their existence. It is dangerous, too, to the whole system of parliamentary democracy.’²

Supersession of Judges. Following the judgments in Keshavnanda, the Government ‘superseded’ the three senior-most judges and appointed Justice A.N. Ray Chief Justice of India. This supersession led to a storm of controversy. It was alleged against the Government that the ‘supersession’ was politically motivated. The Government in defence pointed out that the appointment to the office of Chief Justice was by selection. The convention of appointing the senior-most Puisne-Judge of the Supreme Court Chief Justice has been well established. The Law Commission merely stated seniority should not be the sole consideration in appointing the Chief Justice of India. Nor one could take objection to its recommendation; but the Government was not able to act upon that recommendation because of the difficulty in laying down the norms to ascertain the qualities prescribed in the Report.

The supersession of the Judges was not an isolated act; it was a part of a scheme. After the decision in the Privy Purses case talk of packing the Court and having “committed” Judges was more and more in the air. ‘The judiciary under the Constitution has to keep

¹H.R. Khanna, ‘Judges should be above all Politics’, Illustrated Weekly, 11 Dec., 1977.

²A.K. Mukhopadhyay, *Society and Politics in Contemporary India*, pp. 167 and 183.

the executive within its constitutional rights and power. The Judge should be like the angel with the flaming sword, telling the executive "so far and no further". The Supreme Court has been especially charged by the Constitution to safeguard the rights of the citizen against executive exactions and encroachments. . . . Therefore to my mind the only reasonable solution to the problem is to have a high power committee or council of Chief Justices and jurists to advise the Government on the appointment of Judges in the Supreme Court and the High Court.¹

The character of the Supreme Court gradually began to change. The sitting Judges almost as a body were so long renowned for the maintenance of their anonymity. From now on and particularly after the declaration of Emergency in June 1975 some of the Judges became very vocal and expressed that "Judges must constantly remind themselves that the law is nothing but an expression of the social and economic policy, which reflected the hopes and aspirations, the urges and demands of the people". And further, "our minds continue to be oppressed by the heritage of colonial past. The colonial hang-over is stifling the originality and creativity of our legal thinking and hampering the growth of a new jurisprudence which is necessary for the welfare of our masses."¹

In short, one view. 'It seems to me, that outstanding merit should be the only criterion, when appointing a judge. There is no dearth of men of sterling qualities in our present judiciary. I agree, also, with the third criterion suggested by Mr. Chagla, viz. that the judge should possess not only intelligence but must also have the courage to pronounce judgment fearlessly, according to his own conscience, and not submit to pressure'.² The other view is that the principle of seniority should be strictly followed by the government in the appointment of the Chief Justice of the Supreme Court. The Law Commission, in its 80th report which was presented to the Lok Sabha on 28 January 1979 said that departure from this principle in the past had aroused controversy and affected image of the office of Chief Justice. It recommends: "The vesting of unbridled power in the executive to depart from this principle may be abused. The commission suggests that where the government proposes to depart from this principle, the matter should be referred to a panel. In case of

¹K.S. Hegde, 'A Dangerous Doctrine', in Kuldip Nayar's *Supersession of Judges*, pp. 47-119.

²A.K. Choudhry, 'Appointment of a Chief Justice : The Study of a Controversy in a New Perspective', J.C.P.S. Oct-Dec. 1977, pp. 36-37.

difference of opinion, the decision of the majority would hold the field."¹

More than 60 judges of the High Courts and the Supreme Court and several other leaders of the legal profession on 6 February suggested a collegium of judges for appointment to the higher judiciary. The committee, which studied the question of independence of judiciary at the silver jubilee conference of the Indian Law Institute, was of the view that executive control or interference in the matter of appointment of judges impaired judicial independence and should be eliminated. The question was how. The committee which discussed the issues threadbare favoured the idea of collegium of the Chief Justice and two or three senior judges arriving at the decision. The decision then should be sent to the Governor or the President and should be binding upon the Government. The participants also felt that executive interference was largely responsible for "deterioration in the quality of the judiciary". In some cases, merit was sacrificed at the altar of partisanship and political favouritism they said.²

Y.V. Chandrachud, Chief Justice of India, suggested in Patna on 26 February 1983 the formation of a broad-based body of nine members to clear the appointment of judges to high courts and the Supreme Court. A tangible system of continuing education for members of the bar and the bench to "prevent the stunting of intellectual growth" was also needed, he said. In an unusually frank address marking the inauguration of the two-day all-India law seminar on "erosion of the judiciary—its remedial measures", the Chief Justice attributed the malady to a "tremendous erosion in the standards of the bar". He opined that the body for appointing judges could consist of 3 members from the bench, 2 from the bar, 2 from the Government and 2 from the opposition. These members should discuss the merits of eligible persons within closed doors and reach decisions.³

'That the recommending authority should be more broad-based and that other interests should also be consulted is not a new idea. The real question is the composition of such a collegium, council or body (by whatever name called) in which all interests are represented, the shroud of secrecy is removed to some extent, and where pressures or pulls may have no scope. One may even think of public presentation in such a body by providing for the nomination of a

¹Times of India, 29 Jan. 1979.

²Indian Express, 7 Feb. 1983.

³Indian Express, 27 Feb. 1983.

person well versed in public administration, administration of the law courts act. A panel of names could also be prepared valid for specified periods. 'If the independence of the judiciary is to have any meaning, if for the proper functioning of a free and democratic society there is a compelling need for a set of judges whose sole allegiance would be to the Constitution and the rule of law, and who would be able to discharge their duties fearlessly and justly even in times of stress and abnormality; if the Bench is not to include judges who by reason of their selfishness, personal ambition, political affiliations and the like are likely to undermine the institution from within, a well informed public debate on the method of selection of judges is absolutely essential and the sooner it is undertaken the better for all concerned.'¹

Appointment of District Judges in U. P. Persons are to be appointed as district judges by the Governor in consultation with the High Court under article 233. In U. P. the rules framed empowered the Governor to appoint a person as a district judge only after consulting a Selection Committee and the High Court. Appointments made in exercise of the power under this rule clearly contravened the express provisions of the Constitution. Hence, the Supreme Court struck down the appointments. This, naturally, resulted in rendering the judgments delivered by such judges as invalid. Hence, the Constitution was amended to validate such judgments (Amendment Act No. 20).

Transfer of High Court Judges. On 29 January 1981, the Supreme Court referred to a seven-judge Constitution bench a writ petition challenging the constitutional validity of the transfer of the Chief Justices of Patna and Madras High Courts by the President through a notification issued on 19 January 1981. The Government was asked to give reasons for the transfers ; and the Bench also wanted to know the policy on judges' transfers. The Union Government defended the transfers and a categorical statement on behalf of the Government was made on 12 November 1981 in the Supreme Court during the hearing of the case to effect that the Chief Justice of India had no say in the formulation of the policy by the Government on transfer of High Court Judges. The Supreme Court judgment held the transfers valid.

Delay in Justice. According to Justice P.N. Bhagwati, speedy trial as a fundamental right of citizens is implied in article 21 of the Constitution. But it is a "crying shame on the judicial system which permitted incarceration of men and women for long periods without

¹G.R. Rajagopaul, 'Selection of Judges', Indian Express, 4 Feb, 1983.

trial. . . . An alarmingly large number of men and children are behind prison bars for years awaiting their trial in the courts of law. The offences with which some of them are charged are trivial. Even if proved, the charges could not warrant punishment for more than two months, perhaps for a year or two. Yet the unfortunate forgotten specimens of humanity have been in jails for periods ranging from three to ten years, hence the judicial system has to be revamped so that such injustices do not occur again." It is an old adage that justice delayed is justice denied. But unfortunately in India justice is delayed and, therefore, it is denied. This is so because the cases remain pending in the Courts for years together. The oldest case has been pending since 1938 in the Calcutta High Court. The Madras High Court has a case dating back to 1940.

The chief causes responsible for arrears are : (a) increasing number of cases ; (b) antiquated judicial procedure ; (c) ill-drafted legislation ; (d) inadequate number of judges ; (e) unfilled vacancies ; (f) increase on account of 42nd amendment, which prescribed the minimum number of judges to constitute the benches ; and (g) long oral arguments. Naturally the remedies for the clearance of arrears are : (i) laws should be properly drafted ; (ii) the number of judges should be increased ; (iii) judgments should be short and concise ; (iv) practice of writing individual judgments should be stopped ; (v) instead of making oral submissions the lawyers should be asked to make written submissions ; (vi) appeals should be restricted ; and (vi) some procedural reforms should be made.¹

Extra Judicial Activity of Judges. "Judges are by reason of their office and nature of work expected not to get involved in controversial matters or to concern themselves with political issues or policies undertaken by political parties as a part of their political programme." Supreme Court Chief Justice Ray said on 19 August 1976 while rejecting charges of contempt of court against 15 lawyers who had criticised a High Court judge for controversial statements outside the court. Sad to say, but the most flagrant breaches of the court's injunction are being committed these days by judges, the Supreme Court themselves. The speeches delivered by P.N. Bhagwati, D.A. Desai and D. Chinnappa Reddy JJ at the recent Indo-German seminar reeked of politics and were undoubtedly highly "controversial", in glaring contrast to the paper submitted by E.S. Venkataramaiah J. Were their example to be emulated by judges of the High Courts, District Courts and even lower, it will result in total collapse of the

¹J.R. Siwach, 'Delay in Justice in India', J.C.P.S. Oct-Dec., 1979, pp. 409-24.

judicial system which the people have come to know and respect as one of the few institutions which, for all its lapses, have withstood corrosive influences at work.

Chief Justice Ray also said, "It will not be correct and proper for any judge to accept the invitation and hospitality of any business or commercial organisation or of any political party or of any club or organisation run on sectarian, communal or parochial lines. Invitations by the Bar Associations or social invitations naturally stand on a different footing and no one will find an exception to any judge attending a social function." The instances of the forbidden cited by the Supreme Court in regard to both the subject and forum of extra-judicial comment are illustrative, though surely not exhaustive. The basic principle was well stated by the Law Commission in 1958 in its 14th Report: "A judge has to maintain an aloofness amounting to self-imposed isolation. . . . It has to be realised that if the public is to believe that justice is being impartially administered, judges cannot rub shoulders with one and all in a manner which any other person may do. Their public activities and even their pronouncements outside the court have to be consistent with the isolation which their office demands."¹

Judges from outside the State. The Government's decision to have the Chief Justices or High Courts and one-third of their judges from outside the concerned states expectedly figured prominently in the all-India conference of judges as well as the deliberations of the conference on judicial reform organised on the occasion of the silver jubilee celebrations of the Indian Law Institute in February 1983. This major policy decision had been hanging fire ever since the then Law Minister formally bruited the idea in 1980, setting off a major controversy and raising the spectre of a politicised and committed judiciary contrary to the intent of the Constitution and the demands of democracy. In going ahead with the decision, the Government undoubtedly has been bolstered by the Supreme Court verdict in the transfer of judges case late last year giving it overriding powers to appoint or transfer judges. While several sound arguments can be advanced both for and against having a certain proportion of High Court judges from outside the concerned state, the principle becomes suspect in view of the possible motivation underlying the reform. The circumstances of the transfer and re-transfer of some

¹A.G. Noorani, 'Extra-Judicial Activity of Judges', Indian Express, 13 Feb. 1983.

judges and the extension or non-extension of the tenure of some others during the Emergency and after are at the basis of the fear that in implementing the decision, considerations other than purely judicial may come into play. A major safeguard in this regard was the convention to seek the concurrence of the Chief Justice of India in all matters of appointment and transfer. This healthy practice now faces the prospect of extinction following the Supreme Courts endorsement of the Government's stand that the executive may or may not seek, or may or may not accept, the views of the Chief Justice in this regard.¹

Suggestions for Reforms. We may now make a few suggestions for the improvement of our judicial system : (1) The Judges must not be appointed to a Government post after retirement. (2) The age of retirement of the High Court Judges and of the Judges of the Supreme Court should be the same. (3) The number of judges in the State High Courts is inexcusably small, with the result that each High Court is facing heaps of arrears. (4) The law of procedure must be simplified. (5) The quality of the Indian Bar being deplorably low, comprehensive steps should be taken to attract talent to it. The system of legal education in the universities is most defective and there is practically no legal training imparted on scientific lines. Since the bulk of the Judges of the High Court and the Supreme Court are drawn from the Bar, the poor quality of the Bench.² (6) The salaries of the Judges of the High Courts and the Supreme Court have remained static since the commencement of the Constitution, although there has been steep rise in living costs and the salaries of all other categories of employees have been revised upwards a number of times.

Creation of a National Appellate Court. The meteoric fall in the quality of High Court judges and the oppressive work-load in the apex court, leaving it no time at all to apply its mind to the common problems of a common man, demand the bifurcation of the constitutional functions of the apex court from its ordinary civil and criminal functions. The fast developing situation demands the establishment of a national civil and criminal appellate court (without any jurisdiction to interpret constitutional provisions and constitutional amendments) which can correct the errors of several High Courts in the country and solve the problems arising out of conflicting decisions. Such a court ought to have at least four permanent circuits in the country

¹ 'Judicial Reform', editorial, Indian Express, 14 Feb. 1983.

² M.G. Gupta, *op. cit.*, pp. 265-66.

to deal with the fast-growing number of cases with which the apex court is at present flooded. 'I am not suggesting the establishment of zonal courts as this will again give rise to conflicting decisions. We want one and only one civil and criminal appellate court for the country (indeed with permanent benches) uniformly to cater to the questions and calamities which the common man faces in this country. We want a court unlike the apex court, which has time and aptitude to apply its mind to lay litigant's grievances. Its decisions, civil and criminal, shall be final on law and facts. Such a court should not only be manned by talented judges but the Chief Justices of the High Court should ex-officio be invited there in case of need. Such a court, without undue expansion of its strength, will be able to discharge its functions to the apparent satisfaction of the people.'¹

Creation of Constitution Court. The Law Commission was prompted to consider reforms in the structure of the Supreme Court by the heavy workload and arrears of cases which left little time for judges to make the intensive study required of them. Its Chairman, K.K. Mathew on 3 February 1982 told newsmen that a detailed questionnaire had been circulated among the Supreme Court, High Courts, chambers of commerce, trade unions and others. One of the questions was on the advisability of replacement of the Supreme Court by a constitutional court dealing exclusively with constitutional matters. In raising the questions, the objective was to know how it was possible to attain speedily the twin aims of reducing arrears and to create a high judicial forum which would have the necessary leisure to go into intricate matters of constitutional law and deliver effective judgments. The possibility envisaged in the question was the splitting of the Supreme Court into a court of appeals and a constitutional court.

Mathew, himself a former judge of the Supreme Court, thought the Judges did have little time to go into constitutional matters. The adjudication of constitutional matters had a great impact on the country's political future. Constitutional law was a part of politics, so a judge should be familiar with what all the great political philosophers since Aristotle and Plato had stated.²

The national executive of the Bharatiya Janata Party meeting at Bhubaneswar on 13 February 1982 condemned the move of the Law Commission to set up a new constitutional supreme court and thereby help the Prime Minister to perpetuate her dynastic rule in the country.

¹S.H. Sheth, '*Judicial Reforms*', Indian Express, 24 Feb. 1983.

²Times of India, 4 Feb. 1982.

A resolution adopted by the executive, which was released to the press, said that the Law Commission's questionnaire was "an unfortunate exercise in weakening, if not destroying, the most vital pillar of the Republic of India and the very fulcrum of the democratic edifice." The resolution further said the country's Constitution, "while adopting the cabinet and parliamentary form of government from England, had at the same time heavily borrowed the system of checks and balances from the constitution of the United States. No one had felt any serious need to bifurcate the constitutional powers from the non-constitutional powers or to create two separate tribunals dealing exclusively with either the one or the other class of issues. "The Supreme Court of India, a successor to the privy council and the Federal Court of India, had likewise discharged its functions."¹

The underlying suggestion of dividing the court into a Constitutional court and a court of appeal may look attractive because the division is apparently functional. However, it misses the point that the Supreme Court is one composite institution. Further, it suggests a remedy which is irrelevant to the disease. The main problem of the court is of defective metabolism. The number of matters which come up before it is far larger than can be disposed of in a reasonable time. This calls for a reorganisation of its working, not its division. It requires an examination of the manner of admissions, of hearing and the disposal. The problem of delay cannot be resolved by the artifice of splitting the court into two.²

Supreme Court and Social Justice. In general, the Court has interpreted the constitutional provisions contained in articles 29 and 30 liberally in favour of the minorities and these guarantees have been saved by the Court from being mere "testing illusions." Regarding the directive principles of state policy, the Court has taken a liberal view, although it has held that these principles do not override the fundamental rights. 'The directive principles have all along been regarded by the Supreme Court as an important and integral part of the Constitution ; and due weight has been given to these while considering the validity of impugned laws, yet however laudable might be the purpose these cannot violate fundamental rights.'³ According to Soli J. Sorabjee, socio-economic legislation has been consistently up-

¹Times of India, 14 Feb. 1982.

²Ashok H. Desai, 'Bifurcating Supreme Court : Remedy Much Worse than Disease', Times of India, 31 March 1982.

³Bakhshish Singh, *The Supreme Court of India as an Instrument of Social Justice*, pp. 76-77 and 257-60.

held. In industrial law, the approach rightly has been to support the under-dog rather than the employer. Courts have more often than not, negatived challenges to town planning and acquisition and requisitioning legislation even though it severely curtailed property rights. A majority of the laws imposing restrictions on rights to property and trade and business have been judicially upheld rather than struck down.

CHAPTER 13

Special Provisions

In this chapter we propose to deal with : (1) Special Provisions in Part XVI of the Constitution; (2) Special Provisions with regard to Jammu and Kashmir State; (3) Special Provisions with regard to other States; and (4) Special Provisions for the Administration of Scheduled Areas and Scheduled Tribes.

I. Special Provisions in Part XVI

Regarding Reservation of Seats for Scheduled Castes and Scheduled Tribes and the Representation of the Anglo-Indian Community in the Legislatures. Articles 330-34 deal with : (a) reservation of seats for scheduled castes and scheduled tribes in the Lok Sabha and Legislative Assemblies of the State; and (b) representation of the Anglo-Indian Community¹ in the Lok Sabha and the State Legislative Assemblies. These provisions have been discussed at relevant places in Chapters 10 and 12. But the following critical observations deserve to be noted here :

‘Apprehensions were voiced that transitional reservations may, in course of time, become permanent. But somehow people were persuaded to believe that it would not be so, since Independent India would witness, in its first decade, a dramatic change in the condition of the scheduled groups. The rapprochement between the Congress and Ambedkar (architect of the Poona Pact), which was evident in the constitution-making role assigned to him, reassured people, especially the scheduled castes.

‘Let us briefly review the justifications offered in 1959 and 1969 for the renewal of reservations. In 1959 extension of reservations seemed a political necessity to the ruling party as elections in Kerala were imminent (as it seemed in 1979 in view of the impending

¹Other facilities relating to their entry in certain services and grants for the educational institutions ceased after ten years from the commencement of the Constitution.

Gujarat elections). But the Eighth Amendment, seeking extension of reservations by another decade, met with tough opposition from the Republican Party of India. Home Minister G.B. Pant sought to justify reservations on the ground of 'political justice'. Representation of the scheduled groups was essential in a democracy; but without reservations, he argued, this might not happen. Besides such representation was justified on the ground that it would help the battle against exploitation of the scheduled groups. The main justification for the renewal of reservations (in 1969) was that the position of scheduled groups had not yet improved substantially. Statistics of literacy, educational and job reservations and overall social and economic conditions were reeled off to prove the case. It was even said that the government could not do better until the caste system was "abolished"

'Anti-reservationists argued that lack of substantial improvements cannot be redressed through reservation in legislatures. If this, however, was the premise, one member estimated that it would take 100 years to modestly improve the conditions of the scheduled castes, and 329 years for those of the tribes. M.R. Masani argued that the policy of reservations had an "opiate" effect. It had "put the conscience of the upper class and upper castes to sleep". It had a similar "doping effect" on the reserved groups as well; it had "put to sleep the instinct for social justice and dynamism that should come from an underprivileged class". He urged a progressive abolition of reservations within a period of thirty years. This fine suggestion too went unheeded. The Bill was passed by 302 votes in favour and none against.¹

Claims of Scheduled Castes and Scheduled Tribes to Services and Posts. Article 335 lays down that claims of the members of the scheduled castes and scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State. In order to fulfil the requirement of this article, the Union and State Governments have provided reservation of posts for these weaker sections. The question of reservation in services has been discussed in Chapter 17.

Special Officer for Scheduled Castes, Scheduled Tribes and Backward Classes. Article 338 provides for the appointment of such an

¹Upendra Baxi, 'Casual Approach to National Issue', Indian Express, 18 Aug. 1979.

Number of Reserved Seats in the Lok Sabha and State Vidhan Sabhas, according to Delimitation Order 1976.

STATE UNION TERRITORY	Total Seats number of seats	Reserved for S.Cs.	Reserved for S.Ts.	Total Seats number of seats	Reserved for S.Cs.	Reserved for S.Ts.
1	2	3	4	5	6	7
1. Andhra Pradesh	42	6	2	294	39	15 (1)
2. Assam	14	1	2	126	8	16
3. Bihar	54	8	5	324	48	28
4. Gujarat	26	2	4	182	13	26
5. Haryana	10	2	—	90	17	—
6. Himachal Pradesh	4	1	—	68(2)	16	3
7. Jammu & Kashmir	6	—	—	76	6	—
8. Karnataka	28	4	—	224	33	2
9. Kerala	20	2	—	140	13	1
10. Madhya Pradesh	40	6	8	328	44	75
11. Maharashtra	48	3	4	288	18	22
12. Manipur*	2	—	1	60	1	19
13. Meghalaya*	2	—	—	60	—	—
14. Nagaland	1	—	60	—	—	—
15. Orissa	21	3	5	147	22	34
16. Punjab	13	3	—	117	29	—
17. Rajasthan	25	4	3	200	33	24
18. Sikkim	1	—	—	32	2	—
19. Tamil Nadu	39	7	—	234	42	3
20. Tripura	2	—	1	60	1	17
21. Uttar Pradesh	85	18	—	425	92	1
21. West Bengal	42	8	2	294	59	17

*No reservations, since the vast majority of the population is tribal.

Officer by the President. His functions are to investigate all matters relating to the safeguards provided for the scheduled castes and scheduled tribes and to report to the President upon the working of those safeguards at such intervals as directed by the President. The President causes all such reports to be laid before each House of Parliament. In this article reference to scheduled castes and scheduled tribes is to be construed as including references to such other backward classes as specified by Presidential order on receipt of the report of Backward Classes Commission. Article 340 authorises the President

to appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes and the difficulties under which they labour. After investigation the Commission is to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties, to improve their condition and as to the grants that should be made for the purpose by the Union or any state. The report containing recommendations of the Commission is presented to the President, who causes a copy of the report together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

According to the 1961 census, the scheduled castes population was slightly more than 9 crores i.e. about 15% of the total population of the country. Members of the scheduled castes have been granted certain privileges and they enjoy certain concessions. The state is required to discharge some special responsibilities in respect of them; and special provisions may be made for them. Their education and economic interests are given special protection. In order to protect their interests (besides reservation of seats in Legislatures and services) and for looking after their welfare, special ministers can be appointed in States; and the President appoints a Special Officer for the same purpose.

Besides the scheduled castes and scheduled tribes, other sections of the people, who are socially and economically, backward also need special protection. The reasons for their backwardness may be historical, socio-economic, poverty, lack of educational facilities, and want of encouragement as well as opportunities to enter Government services and other lucrative jobs. The backward classes had a low position in the traditional caste hierarchy; so they have been politically under-privileged. But the Constitution nowhere defines the expression 'Backward Classes'. The Union Government and State Governments are free to define the expression for the purpose of article 15(4) and article 16(4). When the Backward Classes Commission was appointed many communities which are rich and well-placed in life expressed their desire for being included in the list of the Backward Class Communities. An interesting classification of Backward Classes came from the State of Mysore (now Karnataka) where 95% of the total population was classified as backward and the classification was based on considerations of religion and castes rather than on economic backwardness or cultural backwardness. The list of backward classes drawn by Mysore Government contained all communities and castes of Hindus except Brahmins, Banias and Kayasthas and all other commu-

nities except Anglo-Indians and parsis. The Mysore High Court struck down the classification in a case that came under article 15 (4)¹.

While the Constitution has prescribed the following protective measures and safeguards for these classes, the successive Five Year Plans have regarded their progress as a major objective of national policy; (i) The abolition of 'untouchability' and the forbidding of its practice in any form (article 17); (ii) the promotion of their educational and economic interests and their protection from social injustice and all forms of exploitation (article 46); (iii) the throwing open by law of Hindu religious institutions of a public character to all classes and sections of Hindus (article 25); (iv) the removal of disability, liability, restriction or condition with regard to access to shops, public entertainment or the use of wells, tanks bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public (article 15); (v) the curtailment by law, in the interests of any scheduled tribe, of the general rights of all citizens to move freely, settle in and acquire property (article 19(5)); (vi) the forbidding of any denial of admission to educational institutions maintained by the State or receiving aid out of state funds (article 29); (vii) permitting the State to make reservation for the backward classes in public services in case of inadequate representation and requiring the State to consider the claims of scheduled castes and tribes in the making of appointments to public services (articles 16 and 335); (viii) Special representation in the Lok Sabha and the State vidhan sabhas to scheduled castes and tribes till 25 January 1980 (article 330, 332 and 334); (ix) the setting up of Tribes Advisory Councils and separate departments in the States and the appointment of a special officer at the centre to promote their welfare and safeguard their interests (articles 164 and 338 and Fifth Schedule); (x) special provision for the administration and control of scheduled and tribal areas (article 244 and Fifth and Sixth Schedules); and (xi) prohibition of traffic in human beings and forced labour.

II. Special Provisions with Regard to Jammu and Kashmir State

Background. Prior to the partition of India the State was ruled traditionally by the late Maharaja Sir Hari Singh of Kashmir. The Maharaja decided on 26 October, 1947 that the State would accede to the Union of India; this was done 4 days after the invasion of Jammu and Kashmir by well-equipped tribesmen from the North-

¹T.K. Tope, *The Constitution of India*, p. 453.

West Frontier Province at the instigation of Pakistan Government. At that time the accession was confined only to three subjects viz. foreign affairs, defence and communications. Thus, in a sense the accession of the State into the Indian Union was conditional and transitional. Jawaharlal Nehru on 28 October made it clear that accession was subject to reference to the people of the State and their decision. Since then Kashmir has been treated as a "part" of the Union of India. The founding fathers of the Indian Constitution were clearly motivated by the concept of unity and integrity of India. When the Kashmir issue came up for discussion in the Constituent Assembly, in which four nominated members of the Jammu and Kashmir also participated, it was felt that some provisions regarding Kashmir should find a place in the proposed Constitution of India.

Thus, the draft article 306-A (which later became article 370 of the present Constitution) was moved by N. Gopalaswami Ayyangar on 17 October 1949. On that occasion he said, "We are also committed to ascertaining the will of the people by means of a plebiscite provided that peaceful and normal conditions are restored and the impartiality of the plebiscite could be guaranteed. We have also agreed that the will of the people through the instrument of the Constituent Assembly will determine the Constitution of the State as well as the sphere of Union jurisdiction over the State".¹ Even then founding fathers wanted to maintain the supremacy of the Indian Parliament over the units of the Union. The draft article 306-A provided for the Indian Parliament the power to legislate on the three acceded subjects of the Government. The power of the Indian President to notify the items over three subjects was absolute in this respect, but it was necessary for him to consult the State Government before issuing the notification. Thus, article 370 in Part XXI of the Constitution was designated as "Temporary Transitional and Special Provision" for the State of Jammu and Kashmir.

Present Position. The article 370 reads that : (A) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir. (B) The Power of Parliament to make the laws for the said State be limited to those matters in the Union and the Concurrent Lists as, with the concurrence of the Government of the State, the President may by order specify. On the day of the commencement of the Indian Constitution, the President of India issued an Order under article 370 (1) (ii) declaring that 35 entries in the Union list would

¹C.A. Debates, Vol. X, p. 424.

apply to the three subjects—external affairs, defence and communications, as specified in the Instrument of Accession of Kashmir to India. Moreover the President's powers to grant pardons, reprieves etc. of punishment and sentences were limited and the jurisdiction of Indian Supreme Court in the matter of civil and criminal cases was also debarred. Only the jurisdiction of the Election Commission of India was confirmed in the State of Jammu and Kashmir.

Later, on 5 May 1951, the Maharaja of Kashmir issued a proclamation establishing a Constituent Assembly for the purpose of framing the Constitution for the State. Under the State Constitution, the head of the State now is the Governor. Originally the office of Sadar-i-Riyasat had been created in November 1952, after the abolition of the hereditary monarchy. The Sadar-i-Riyasat could be a person elected by the State Legislative Assembly, by a majority of the total membership for a term of five years, but subject to the pleasure of the President. The head of government (Council of Ministers) was called the Prime Minister ; since the agreement of February 1975, he has been designated as Chief Minister, though he may use the old designation of Vazir-e-Azam in the State. The Legislature of the State is bi-cameral, consisting of the Legislative Assembly and Legislative Council. The L.A. is popularly elected, consisting of one hundred directly elected members plus a few nominated members as women representatives, if the Governor thinks that women are not adequately represented in the Assembly ; but out of the total number (100) of States Assembly, twentyfive are reserved for the Pakistani occupied areas, which remain vacant. The members of the Legislative Council are elected indirectly from the Legislative Assembly, the local bodies and teachers' constituencies, etc. The State High Court consists of a Chief Justice and two or more other Judges. Its jurisdiction is both appellate and supervisory. In the event of an emergency caused due to breakdown of the constitutional machinery, the general provisions of the Indian Constitution apply.

An understanding between the Government of Kashmir and India developed, which finally led to the Delhi Agreement in June 1952. After this agreement the elected position of the 'Sadar-i Riyasat' was accepted by the Presidential order of 15 November, 1952. According to the Delhi Agreement of June, 1952, the jurisdiction of the Union Parliament extended over the State subject to the decisions of the Constituent Assembly of Jammu and Kashmir. This was ratified by the State Assembly on February 1954. Again, on 14 May 1954, President of India with the concurrence of the Jammu and

Kashmir Government issued an order under article 370, applying certain provisions of the Indian Constitution and repealing the earlier order of 1950. This was done with the object of implementing the Delhi Agreement of 1952.

Under the Agreement, Parts II-IV also became applicable to the State, with very minor exceptions. The article 352 relating to the proclamation of an emergency also became applicable ; and the jurisdiction of the Supreme Court in civil and criminal cases was also restored. But still the Indian Parliament was not competent to modify article 370, or to alter the territory of the State, or even to change the name of the State. Similarly, the authority of the Indian President remained limited to the terms of the Instrument of Accession. The President's authority can be extended over the subjects referred to in the Union and Concurrent Lists for which the "concurrence" of the State Government is necessary. The prior consent of the President under article 255 is also not necessary as it is in the case of other units. Moreover, his authority under article 355 is also limited.

February 1975 Accord. In February 1975, the Prime Minister, Smt. Indira Gandhi arrived at an accord with Sheikh Abdullah. The Prime Minister, commending the accord with the Sheikh reassured Parliament on 24 February that there would be "no weakening of the ties which exist between the Union of India and its constituent units of which the state of Jammu and Kashmir is one." Mrs. Gandhi, who presented to both Houses the text of understanding reached with the Kashmir leaders and related correspondence, declared that the Centre's relationship with Kashmir would continue to be governed by article 370 of the Constitution which confers a special status on the state. Later in the clarification to a query raised by A.B. Vajpayee, Mrs. Gandhi said that article 370 had become permanent since 1956 as the Kashmir constituent assembly did not suggest its deletion or modification.

The Prime Minister also explained that the Centre retained the powers to deal with any secessionist or disruptionist activities in the State. The President's assent would also be necessary to give effect to any amendment to the States's constitution "on certain specified matters of importance." Three main points in the Six-Point Agreement are : (1) The State of Jammu and Kashmir, which is a constituent unit of the Union of India, shall in its relations with the Union, continue to be governed by article 370 of the Constitution of India. (2) The residuary powers of legislation shall remain with the State; however, Parliament will continue to have power to make laws relating to

the prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about secession of a part of the territory of the state from the Union or causing insult to the Indian National flag, the Indian National Anthem and the Constitution. (3) Where any provision of the Constitution of India had been applied to the State of Jammu and Kashmir with adaptations and modifications, such adaptations and modifications, can be altered or repealed by an order of the President under article 370, each individual proposal in this behalf being considered on its merits; but provisions of the Constitution of India already applied to the State of Jammu and Kashmir without adaptation or modification are unalterable.¹ In June 1977, the new Prime Minister, Morarji Desai did well to make the categorical statement that the Union Government and the Janata Party leadership had no intention of scrapping article 370, which confers special status on Jammu and Kashmir.

New Chief Minister and Resettlement Bill. Soon after the death of Sheikh Abdullah, his son, Dr. Farooq Abdullah, who had been inducted into the Cabinet only a few days before, was sworn in as the new Chief Minister at midnight on 8 September 1982. Constitutional experts observed that Dr. Abdullah had been straight away appointed Chief Minister, and not as an interim Chief Minister, while he was elected leader of the ruling party afterwards. The press note issued by the information department also created some confusion, as it stated that "all members of the previous Council of Ministers" were present on the occasion. The Council of Ministers no longer enjoyed any legitimacy as none of them had renewed the oath of office. The Governor is authorised to appoint other Ministers only on the advice of the Chief Minister. On 17 September, Dr. Abdullah, after reading the will and the last testament of his father, pledged himself to the secular ideal of India. "I will go from town to town and village to village in India to spread the message of secularism," he told the cheering multitude in front of the Hazrat-bal mosque.

The State Governor suggested (on 29 September 1982) that the Legislative Assembly should make changes in the controversial Resettlement Bill to make it consistent with the correct constitutional position. He said that the Bill, as passed, suffered from legal lacunae and was infructuous. The state had no power to legislate in the matter, he added. Commenting on Governor's action, Abdul Ghani Lone, Chair-

¹Times of India, 25 Feb., 1975.

man of the National Conference described it "as an attempt to subvert the internal autonomy of the State." In disregard of the Governor's view to remove the legal lacunae in the Bill the State Assembly on 4 October passed it again with overwhelming support, though the Bill was severely criticised by Congress (I), BJP, and Janata Party members. In a compromise move, the Union Government decided to refer the Bill to the Supreme Court, while the Chief Minister declared that the Bill would not be implemented unless the court announced it valid.

The Jammu and Kashmir resettlement Act will endanger "the security of India by opening the doors for the entry of persons who have not accepted the validity of the state's accession to the Union. In his submissions recently filed in the Supreme Court on the presidential reference of the bill, the Attorney-General of India said this will also result in the entry into India of those who may have been in the Pakistan Army or the intelligence services. Moreover, some of them may have been ardent crusaders for a separate homeland for Muslims" and "may have played important roles in the years 1947, 1965 and 1971."

In his submissions, the Attorney-General also said: "the act is ultra vires of the Constitution because it deals with matters that are in the Union list, such as the admission into and emigration and expulsion from India and matters relating to foreign affairs and India's relations with other countries." Furthermore, it "attempts to put the clock back", because article 370 of the Indian Constitution contains the basic principle which "contemplates progressively the application of more and more provisions of the Indian Constitution to the state of Jammu and Kashmir till article 370 itself ceased to operate."

By sections three and five of the Constitution of the state, the executive and legislative powers of the state do not include "those matters with respect to which Parliament has power to make laws" and under the provisions of the Constitution of India in respect to the state. It was argued that by pith and substance, the act necessarily involves the entry into India of persons from Pakistan and Pakistani citizens under the authority of state law and the conferment of the status of citizenship on them since by migrating to Pakistan they had lost Indian citizenship. The Act 'is in the very nature of things inadequate to check the antecedents of persons who migrated to Pakistan¹ over three decades ago'.

¹Indian Express, 20 Feb. 1983.

III. Special Provision with Regard to Other States

Maharashtra and Gujarat. The President may provide for any special responsibility of the Governor for : (a) the establishment of separate development boards for Vidarbha, Marathwada, and the rest of Maharashtra, Saurashtra, Kutch and the rest of Gujarat, with the provision that a report on their working will be placed each year before the State Legislative Assembly ; (b) the equitable allocation of funds for developmental expenditure over the said areas, subject to the requirements of the State as a whole ; and (c) an equitable arrangement providing adequate facilities for technical education and vocational training.¹

Andhra Pradesh. The President may by order provide, having regard to the requirements of the State as a whole for equitable opportunities and facilities for the people belonging to different parts of the State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the State. Such an order may, in particular, require the State Government to organise class or classes of posts in a civil service of the State into different parts of the State and allot in accordance with such principles and procedure as may be specified in the order the persons holding such posts in the local cadres so organised.²

Manipur. The President may by order provide for the constitution and functions of a committee of the Legislative Assembly, consisting of members of that body elected from the Hill Areas, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the L.A. and for any special responsibility of the Governor in order to secure the proper functioning of such committee.³

Sikkim. The Legislative Assembly consists of not more than 30 members. The State has one representative in the Lok Sabha and the entire State forms one constituency for that purpose. The Governor of the State has special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population. The High Court, functioning before the accession of Sikkim to the Indian Union in 1975 (in consequence of the 36th amendment) was deemed to be the High Court for the State under the Constitution. The President may, by public

¹Article 371.

²Article 371D.

³Article 371C.

notification, extend with such restrictions or modifications as he thinks fit to the State any enactment which is in force, in any State in India.¹

Nagaland. Notwithstanding anything in the Constitution, (a) no Act of Parliament in respect of (i) religious or social practices of the Nagas, (ii) Naga customary law and procedure, (iii) administration of civil and criminal justice involving decisions according to Naga customary law, and (iv) ownership and transfer of land and its resources can apply to the State unless the State L.A. by a resolution so decides ; (bi) the Governor of Nagaland has special responsibility with respect to the law and order in the State so long as in his opinion internal disturbances continue to occur ; (c) in making his recommendation with respect to any demand for a grant, the Governor must ensure that any money provided by the Government of India for any specific service or purpose is included in the demand for grant relating to that service or purpose and not in any other demand; and (d) as from such date as the Governor may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of 35 members and the Governor shall make rules for its composition, term, procedure, appointment of officers and any other necessary matter.²

Meghalaya. Before attaining statehood, it was an autonomous political unit within the State of Assam ; and it comprised the tribal areas of United Khasi-Jaintia Hills (excluding Mikir Hills) and Garo Hills. The Mikir Hills and North Cachar Hills have the option to join this unit later. It was established as a state within the State of Assam by the 22nd. amendment on 25 September 1969. In accordance with the provisions of the newly inserted article 244A Parliament passed the Assam Reorganisation (Meghalaya) Act, 1969. The Governor of Assam was made the head of this new State as well. He acts for it on the advice of a separate Council of Ministers, which is responsible to the State Legislature. There is a Legislature consisting of the Governor and 60 members for the autonomous State. The law made by Parliament for this purpose, in particular, : (a) specified the matters with respect to which the Legislature has power to make laws ; (b) defined the matters with respect to which the executive power of the autonomous State extends ; (c) provided that any tax levied by the State of Assam is to be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State ; (d) provi-

¹Article. 371F.

²Article 371-A

ded that any reference to a State in any article of the Indian Constitution is to be construed as including a reference to the autonomous State ; and (e) made such consequential, supplemental and incidental provision as were deemed necessary.¹

Assam. Notwithstanding anything in this Constitution, the President may, by order, provide for the constitution and functions of a committee of the State L.A. consisting of members of that Assembly elected from the Tribal Areas and such number of other members of the Assembly as may be specified in order and for the modifications to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such a committee.²

North Eastern Council (N.E.C.). With a view to providing for a unified and co-ordinated approach to the security and development of the norther-eastern region as a whole, a North-Eastern Council, consisting of the Governor of Assam and Nagaland as Chairman, the Chief Minister of Assam, Nagaland and Autonomous State, one Minister from each of these States, and Chief Commissioners and Chief Ministers of Union Territories in the region was set up in 1971, by an Act of Parliament as a unique experiment in integrated development of the north-eastern region. The Council is intended to provide for a unified and coordinated approach towards the development of inter-State communications, common irrigation and power and flood control projects and coordinated plans for agricultural production, regional food self-sufficiency and balanced industrial development of the region. The Council prepares in respect of these, an integrated plan for the region as a whole. It also discusses other matters of common interest to the region and suggests suitable measures, including appropriate institutional arrangements. The Council is assisted by a Committee for effective coordination of security and public order in the region in view of its strategic importance. A controversy arose in 1981 over the choice of its new Chairman consequent upon the Government decision to do away with the tradition of having a common Governor, who had so far performed the dual responsibilities. When a proposal was mooted that the Union Home Minister should hold the office of the Chairman, the Home Minister disfavoured the idea ; but later in view of the controversy raging in the north east over the appointment of a Chairman, he relented.

¹Article 224A

²Article 371B

IV. Administration of Scheduled Areas and Scheduled Tribes

General. The executive power of a State extends to the scheduled areas therein. The *Governor* of each State having scheduled areas annually, or whenever so required by the President, makes a report to the President, regarding their administration. There is to be established in each State having such areas, and if the President so directs, also in any State having scheduled tribes, but not scheduled areas, a *Tribes Advisory Council* consisting of not more than 20 members of whom, as nearly as may be 3/4th are to be the representatives of the scheduled tribes in the Assembly of the State. The Governor may make rules prescribing or regulating, as the case may be, (a) the number of members of the Council, the mode of their appointment, and the appointment of its chairman, other officers and servants; (b) the conduct of its meetings and its procedure in general, and (c) all other incidental matters.

Law Applicable to Scheduled Areas. The Governor may by public notification direct that any particular Act of Parliament or the State Legislature shall not apply to a scheduled area or any part thereof in the State or apply to a scheduled area or any part thereof subject to such exceptions and modifications as he may specify in the notification. The Governor may also make regulations for the peace and good government of any area in a State (which is for the time being a scheduled area). In particular and without prejudice to the generality of the foregoing power, such regulations may (a) prohibit or restrict the transfer of land by or among members of the scheduled tribes in such area; (b) regulate the allotment of land to members of the scheduled tribes in such areas; and (c) regulate the carrying on of business as money-lender by persons who lend money to members of the scheduled tribes in such area.

Scheduled Areas. The expression means such areas as the President may by order declare to be scheduled areas. He may at any time by order direct that the whole or any specified part of scheduled area shall cease to be such an area or part of such an area. Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this schedule.¹

Administration of Tribal Areas in Assam, Meghalaya and Mizoram

Autonomous Districts and Regions. The Governor, may, by public notification, (a) include any area in or exclude any area from

¹Fifth Schedule.

the tribal areas included in parts I, II and III of the table appended to paragraph 20 of this schedule; (b) create a new autonomous district, (c) increase or diminish the area of any autonomous district and (d) unite two or more districts. If there are different scheduled tribes in an autonomous district, the Governor may divide the area or areas inhabited by them into autonomous regions. There is a *District Council* for each autonomous district, consisting of not more than 30 members, of whom not more than 4 can be nominated by the Governor and the rest are elected on the basis of adult suffrage. The Governor made rules for the first constitution of District Councils in consultation with the existing tribal councils or other representative tribal organisations within the autonomous district or region concerned.

The *Regional Council* for an autonomous region in respect of all areas within such region and the *District Council* for an autonomous district in respect of all areas within the district have power to make laws with respect to (a) the allotment, occupation or use, or the setting apart of land, other than any land which is a reserved forest, for the purpose of agriculture, grazing, residential or non-agricultural purpose; (b) the management of any forest, not being a reserved forest; (c) the use of any canal or water-course for the purposes of agriculture; (d) the regulation of the practice of jhum or other forms of shifting cultivation; (e) the establishment of village or town committees; (f) the appointment of accession of chiefs or Headmen; (g) the inheritance of property; (h) marriage and divorce; and (i) social customs. The Regional and District Councils in their respective areas may constitute village councils or courts for the trial of suits and cases between the parties all of whom belong to scheduled tribes within such areas.

CHAPTER 14

Civil Services

I. Position Before and After Independence

Before Independence. The following points about the Indian Civil Service may be noted : (1) The main characteristic of the ICS was its emphasis on intellectual culture through a superior liberal education. (2) The history of the ICS shows that while its leading members were geared chiefly to executive administration, the cadre supplied equally successful personnel for the judiciary as well as the special departments dealing with accounts and audit, imperial customs and public works. (3) Considerations of imperial political interest rendered the choice of province by a civil servant, subject to the power of the Government, to local requirements. (4) The civil service in India grew as a non-political instrument of Government, aligned to no Indian caste, religion or creed.¹

Criticism. (1) All superior administrative services were recruited and controlled by the Secretary of State. No subordinate authority could touch them, as such they could not be expected to show that degree of subordination and loyalty to the ministers which are essential requirements for the success of responsible government.

(2) The superior services still contained a predominant British element. The employment of Europeans was, on the one hand, more expensive for the country, and on the other hand, it deprived Indians of legitimate opportunities in the higher ranks of services.

(3) The salaries, allowances and pensions of the higher services were very high, particularly in a poor country like India.

(4) The recruitment of services was based on communal representation. This was in violation of the universally accepted principle of recruitment on the basis of merit. Thus many of the civil servants were incapable and inefficient.

(5) The services constituted a class of their own and exclusiveness was one of their characteristics.

¹B.B Misra, *Administrative History of India*, p. 246

(6) The position of the Indian civil servant was not analogous to that of civil servant in other countries ; he took his place in the legislative and executive councils and also assisted in the formulation of policy.

(7) On the whole, it may be said that the services were efficient, though many of the officers were arrogant and unsympathetic towards the common people, and most of them were not imbued with the spirit of public service.

After Independence. After the transfer of power on 15 August 1947 most of the European Civil Servants resigned and went back home. At the same time the newly created Dominion of Pakistan needed a large number of civil servants ; naturally a very large number of Muslim civilians opted for service in Pakistan. Consequently, the strength of the Civil Service became weakened and depleted under the stress of politics. It was recouped by an augmentation of perhaps inferior staff, channeled through promotion and emergency recruitment. So the Civil Service could not be restored to its original vigour, strength and character except by creating conditions conducive to the quality of selection, security and independence of judgment.

Civil Services Under the Constitution of India. Part XIV of the Constitution may be compared with Part X of the Act of 1935. It may appear at first sight that the provisions of the latter have been reproduced in the Constitution of India. But the key provisions of this chapter are articles 309 and 310. The former empowers Parliament and State Legislatures to regulate the recruitment and conditions of public services of the Union or of the State. The latter makes it clear that all persons hold office during the pleasure of the President or the Governor as the case may be. As both the President and the Governor are constitutional heads, the control of the services by the Central and State Government is complete. In the Government of India Act, 1935, the control of the services was vested in the Secretary of State. There was no control of the Indian Legislatures over the services.

But now subject to the provisions of the Constitution, Acts of the legislatures may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State. Except as expressly provided by this Constitution, every person who is a member of a civil service of the Union holds office during the pleasure of the President, and every person who is a member of a civil service of a State holds office during the pleasure of the Governor. But when a person not belong-

ing to any of the services is appointed to any such post, the President or the Governor may, if it is deemed necessary, to secure the services of a person having special qualifications, provide for the payment to him of compensation (before the expiration of the agreed period) without any misconduct on his part, and he is required to vacate his post. The latter clause is intended to cover cases of foreigners being employed on a contract basis.

If the Council of State (Rajya Sabha) has declared by resolution supported by not less than 2/3rds of the members present and voting that it is necessary or expedient in the national interest to do so, Parliament may by law provide for the creation of one or more All-India Services common to the Union and the States, and subject to other provisions, regulate the recruitment and the conditions of service of persons appointed, to any such service. The services known at the commencement of the Constitution as the Indian Administrative Service and the Indian Police Service were deemed to be services created by Parliament.¹

No person belonging to the above services or holding a post under the Union or a State is to be dismissed or removed by an authority subordinate to that by which he was appointed. Moreover, no such person is to be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. Except as otherwise expressly provided by the Constitution a person, who having been appointed by the Secretary of State-in-Council to a Civil Service continues on or after the commencement of the Constitution to serve under the Government of India (or of any State), shall be entitled to receive from the Government the same conditions of service as respect disciplinary matters as the person was entitled to immediately before such commencement (Article 314). Now article 314 of the Constitution has been deleted by an ammendment of the Constitution.

II. Public Service Commissions

Union Public Service Commission (UPSC)

The most important provisions in the Constitution are in regard to the appointment, powers and functions of the UPSC. It may be noted here that the first Public Service Commission was set up in 1925, under the Government of India Act, 1919. The Government

¹Article 312.

²K. Santhanam, *Constitution of India*, p. 245.

of India Act, 1935, provided for a federal as well as provincial Public service commissions. Chairman and other members of the UPSC are appointed by the President provided that nearly one half of the members are to be persons who have held office for at least 10 years under the Government. A member of the Commission holds office for a term of 6 years or till he attains the age of 65 years. However, a member (a) can resign office or (b) may be removed from office in the following manner. A chairman or member of the commission shall only be removed by order of the President on the ground of misbehaviour after the Supreme Court, on reference being made to it, has gone into it and has recommended removal. Pending such enquiry, the President may suspend such person. But the President can by order remove from office a member or chairman of such a Commission if he (a) is adjudged an insolvent or (b) engages in any paid employment outside the duties of his office or (c) is, in the opinion of the President, unfit to continue in office on account of infirmity of body or mind. On the expiration of his term of office, a member shall be ineligible for re-appointment.

The President may by regulations (a) determine the number of members or their conditions of service, and (b) make provisions with respect to their staff and its conditions of service. But conditions of service of a member are not to be varied to his disadvantage during his term of office. On ceasing to hold office, (a) the Union Commission Chairman shall be ineligible to obtain further employment under any Government; (b) a Union Commissioner is also debarred from further employment except for appointment as the chairman of Union or State Commission; and (c) the chairman or a member of a State Commission is similarly debarred except for appointment as chairman or member of the Union or other State Commission. The following comment deserves notice: 'The principle of this article (319) is that once a person becomes a member of the Public Service Commission, he should consider it as the end of public career and should not aspire to any other office (except those specifically provided). It may be noted that there is nothing to prevent retired members of Public Service Commission from becoming members of Central or State Legislature.'¹

The Constitution of India has accorded to the Union Public Service Commission a status equal to that of the judiciary and has accordingly provided the Commission with adequate safeguards to

¹*Ibid.*, p. 251.

insulate its members from external pressure. Recognizing the ultimate responsibility of the government of the day for the proper management of public affairs, including the public services, the Commission has been assigned what is essentially an advisory and consultative rather than an executive role. The scope of the Commission's operation has been limited by the President in a number of ways. Clause 3 of article 320 authorises the President to make regulations to exclude matters from consultation with the Commission. But regulations seeking limitation on the Commission's functions require Parliamentary sanction. The Commission is enjoined to present annually to the President a report. The President places the report, with a government memorandum thereon, before Parliament.

Functions of the UPSC. The functions of the Commission as laid down in article 320 of the Constitution of India, are as follows : (1) It shall be the duty of the Commission to conduct examinations for appointments to the services of the Union. (2) It shall also be the duty of the Commission, if requested by any two or more States to do so, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required. (3) The Commission shall be consulted : (a) on all matters relating to methods of recruitment to civil services and for civil posts; (b) on the principles to be followed in making appointments to civil services and posts and making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers; (c) on all disciplinary matters affecting a person serving under the Government of India in a civil capacity, including memorials or petitions relating to such matters; (d) on any claim by or in respect of a person, who is serving or has served under the Government of India or in a civil capacity, that any costs incurred by him in defending himself against legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India; and (e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or under the Crown in India in a civil capacity and any question as to the amount of any such award. (4) It shall be the duty of the Commission to advise on any matter so referred to them and on any other matter which the President may refer to them.

The Constitution also provides that the President may make regulations specifying the matters concerning All-India Services and

also other services and posts in connection with the affairs of the Union in which, either generally or in any particular class of cases or in any particular circumstances, it shall not be necessary for the Commission to be consulted. The Constitution lays down that : (i) Nothing in 3 (a), (b), (c), (d) and (e) above shall require the Commission to be consulted as regards the manner in which provisions of appointments or posts in favour of any backward classes or citizens, which in the opinion of the Government are not adequately represented in the services. (ii) All regulations made by the President specifying the matters in which it shall not be necessary for the Commission to be consulted, as indicated above, shall be laid for not less than fourteen days before each House of Parliament, as soon as possible after they are made and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament may make during the session in which they are so laid.

Since the inception of the Commission, the Government of India has followed the convention of accepting the recommendations made by the Commission. If any Ministry or Department considers it essential to depart from the advice of the Commission, regarding a selection for appointment, a decision to that effect has to be taken by the Government as a whole through the Appointment Committee of the Cabinet, consisting of the Prime Minister, the Home Minister and the Minister administratively concerned with the case, the Finance Minister joining the Committee in the event of the dissenting Ministry happening to be the External Affairs or the Home Ministry. Such cases in which the Commission's advice is not accepted are mentioned by them in a report presented annually to the President, in accordance with article 323 (i) of the Constitution. The Constitution also lays down that the President shall cause a copy of the report with a Memorandum explaining, as regards the cases, if any, where the Commission's advice was not accepted, the reasons for such non-acceptance, to be laid before each House of Parliament.

Government servants are sometimes prosecuted in respect of acts done or purporting to be done in the execution of their official duty. The claims for reimbursement of the legal expenses incurred by them in defending themselves are referred to the Commission under article 320 (3) (d) of the Constitution. In such cases, the Commission has to examine the reasonableness of the claim, with reference to the circumstances of each particular case and to advise the Government as to the amount that should be reimbursed. The Commission is also required to be consulted on any claim for the award of a pension in

respect of injuries sustained by government servants while serving under the Government of India in a civil capacity and any question as to the amount of any such award.

State Public Service Commissions (SPSCs). There is a PSC for each State, but two or more States may agree to have one commission for that group of States, on condition that a resolution to this effect is passed by the House or Houses of the Legislatures of these States and Parliament by law provides for the appointment of a Joint PSC. The UPSC, if required to do so by the Governor of a State, may, with the approval of the President, agree to serve all or any of the needs of the State.¹ The Chairman and other members of a joint PSC are appointed by the President and in other cases by the Governors of the States concerned : Provided that as nearly as may be one half of the members of a PSC are persons who at the time of their appointment have held office for at least ten years under the Government of the State. A member holds office for a term of six years from the date on which he enters upon the office or until he attains the age of 62 years. A member may, by writing under his hand addressed to the Governor of the State, resign his office ; and a member may be removed from his office in the manner prescribed for the members of the UPSC.

In the case of a Joint PSC, the President and in other cases the Governor of the State concerned may by regulations determine the number of members of the Commission and their conditions of service and make provision with respect to the number of members of the staff of the Commission and their conditions of service. On ceasing to hold office, the Chairman of a PSC is eligible for appointment as the Chairman or any other member of the UPSC or as the chairman of any other State PSC, but not for any other employment either under the Government of India or under the Government of a State.

The duties and functions of State PSC are similar to those of the UPSC in respect of the services falling within its jurisdiction. An Act by the legislature of a State may provide for the exercise of additional functions by the State PSC as respects of the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institutions. It is also the duty of a State PSC to submit annually to the Governor of the State a report as to the work done by the Commission and on receipt of such report the Governor causes a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Com-

¹Article 315.

mission was not accepted, the reasons for such non-acceptance, to be laid before the Legislature of the State.¹

III. Important Aspects of Personnel Administration

These may be discussed very briefly under the following headings :

Classification. The various services in India may be broadly classified into : (1) services under the rule-making control of the Government of India, and (2) services under the rule-making control of the State Governments. The former group of services includes besides the Defence Services, All-India Services, Central Services of various classes and other services. The All-India Services include the Indian Administrative Service (IAS) and the Indian Police Service (IPS), which are common to the Union and the States, i.e., they serve the purposes of the Union Government and the State Governments. However, the present system of service classification in India is both vertical and horizontal. The vertical classification mainly includes these categories : (i) General Administrative Services, e.g., the IAS and the State Civil Services ; (ii) Functional Services, e.g., the Income Tax Service, the Indian Audit and Accounts Services, the Indian Foreign Service ; and (iii) Specialist Services, e.g., Central Health Cadre, Central Legal Cadre, the State Health Service, the Engineering Cadres of State Public Works Department, etc. In addition to these there also exists a Central Secretariat Service and a Ministerial Service in the States. The Central Secretariat Service is divided into 5 grades.

The horizontal classification of services is based on the degree of the importance of work and the nature and scale of responsibilities involved. The services are horizontally classified into 4 categories, viz., Class I (equivalent to administrative class in U.K.) ; Class II (equivalent to Executive Class in U.K.) ; Class III ; and Class IV. Class I of the Central Services includes Indian Audit and Accounts Services, Indian Revenue Service, Indian Postal Service, Section Officer, etc. Class II includes Assistant Superintendents (Gazetted) and assistants (non-gazetted). Class III includes Upper Division Clerks, Lower Division Clerks, etc. Class IV cadre staff includes messenger-cum-peons, sweepers, watchmen, elevators, staff car drivers, etc. It may be added here that Scientific, Engineering, Medical and Public Health, and Railway Staffs as well as Economists and Statisticians etc., are also divided into Class I, II and III. It should also be noted that

¹Articles 318-23.

all posts in Class I, and the bulk of the posts in Class II, are 'gazetted', but others are not grades. The distinction between the pay scales and grades mainly lies in the process of promotion.

Compensation. The Union Government accepted the recommendations of the Third Pay Commission pertaining to Class II, III and IV employees with some modifications. Important modifications in the recommendations of the Pay Commission were : raising minimum wage from Rs. 185 to 196, revising five pay scales (from Rs. 185-220 to 196-232, Rs. 190-232 to 200-240, Rs. 190-240 to 200-250, Rs. 200-260 to Rs. 210-270, and Rs. 200-280 to 210-290) in the process ; improvement in pay-fixation formula ; cent per cent neutralization of dearness allowance upto the pay of Rs. 300 and 75 per cent between Rs. 300-900 on every increase of 8 points in the 12 monthly increase of the index ; and changing date of enforcement of new pay scales, dearness allowance and retirement benefits from 1 March to 1 January 1973. The Commission had recommended that the Selection Grade in IAS should be given to 20 per cent of the senior scale posts which the Government has cut down to 15 per cent. The Government has also extended Selection Grade of Rs. 2000-2250 to organised engineering services on the basis of stagnation at the maximum of Rs. 2,000 in the Junior Administrative Grade for two years. This will also apply to Economic and Statistical Services but on the basis of the posts to be determined by Government. The Government accepted the Commission's condition, laid down for the time being, that IAS Officers should not be eligible for appointment to the Selection Grade before they enter their 14th year of service.

A feature of the prevailing system is the wide disparity between the salaries of All-India Services and those of Central and State services performing more or less identical duties. This is not conducive to the morale of the services. A further discouraging feature is the wide gap between the senior scales and junior scales. The junior ranks are now facing a difficult economic life on account of high prices ; they should be decently paid in order to keep them above petty malpractices. Above all, the clerical cadres do not get a living wage and adjustments with reference to rise in the cost of living index are tardy, belated and grudging. One solution is to prevent expansion of size at the base and provide accelerated promotion to middle grades, so that every one may be helped to do more responsible work in his or her own interests to get the grade.

Recruitment. Our system, for the most part is based on the British model ; so we still depend on the general knowledge and abi-

lity of an entrant. In another way it is based on the principle of merit and employs open competition as its chief method. In this connection the Constitution says : (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State ; and (2) no citizen shall on grounds only of religion, race, caste, or sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

Direct recruitment of the administrative and most of the executive services is made on the result of competitive examinations, the scheme of which is based mainly on these ideas : (a) a test of intellectual ability and scholastic attainments through written examination in subjects of the candidate's choice (optional papers) ; (b) a written test common to all candidates, designed to test capacity for effective thinking, power of clear expression and general knowledge (compulsory papers) ; and (c) an interview to assess a candidate's personal qualities. Recruitment by promotion is also made, particularly at low levels of services. For example, all permanent and temporary vacancies in the Lower Division Clerks' grades are filled by direct recruitment ; but about half the posts in the Upper Division Clerks' class are filled by promotion on the basis of seniority-cum-merit. From one-fourth to half the posts in the ministerial classes e.g., Superintendents, Assistant Superintendents, Assistants are filled by promotion.

The competitive examination for All India Services is conducted in two parts. The first is the written examination for which three subjects (English Essay, General English and General knowledge) are compulsory. In addition to these three subjects there are twenty-five optional subjects (including all the natural and social sciences, humanities and the classics) and sixteen additional advanced subjects. Candidates for the IAS/IFS have to appear in three optional subjects and two additional subjects, the standard of examination of the latter being much higher than for the former. Candidates for other Central Services and the Police Service need not appear for the advanced subjects.

Training. The National Academy of Administration was established at Mussoorie in 1959 after merging the two existing institutions-IAS Training School (Matcalfe House), Delhi started in 1947 and the IAS Staff College, Simla. The National Academy has enlarged functions. The most important innovation introduced by the Academy is the provision for a common foundational course for the IAS recruits as well as for those selected for the Indian Foreign Service,

the Indian Police Service and the Central Services. After this course, only the IAS men continue in the Academy, the others proceed to complete their training in their own specialised institutions, or according to other arrangements as in the case of the Foreign Service. One very good idea of this course is that it aims at removing the barriers which existed between officers of the different services. It may be described as a national course of training. Another important consideration behind the introduction of this course has been that all these recruits to these important services should have a knowledge of the political, constitutional, economic and social context in which the administration functions. The course extends over five months. The Academy is also intended to provide higher courses for the Union Services, conduct seminars, hold conferences, etc.

The Union Ministry of Home affairs evolved a 'sandwich pattern of training' for IAS probationers for improving the quality of training during the probationary period and to make it more problem-oriented. It was introduced at the National Academy of Administration, Mussoorie in July 1969. Under the new system the institutional training of IAS probationers has been divided into two periods of about eight months and four months separated by a 12-month period of practical training in the States. This has been described as the Sandwich type of training. During the first spell of training at the Academy, the probationers receive intensive training in subjects like Law, Economics, Political Theory, Constitution, Indian History and Culture. They are then sent to their States of allotment for a period of one year for training on-the-job followed by a four-month training at the Academy. During this period their training concentrates largely on the problems and techniques of administration and more practical aspects of Economics. Being problem-oriented, the training is based largely on their experience and observations in the field of district administration.

For top executives, both in business and government, the Administrative Staff College, Hyderabad, provides a 4 months' course on the model of the famous British Staff College, Henley. The staff college was established on the Initiative of the Central Government and with the active interest and cooperation of business and industry. The objective is the executive development of administrators, both from business and industry as well as from government. In addition, there is a Police Training College for IPS at Mount Abu. The Indian Institute of Public Administration established in 1953, has also been engaged to some extent in this training programme. The Institute has also

been running short term courses for junior officers of different categories working in Union Territories or Public Sector Undertakings like the Hindustan Steel. Recently an innovation has been made in the training of the civil service in India. The knowledge-content of the officers in two important subjects—economic administration and management in Government—has been modernised, and the IAS training is receiving a systematic input of knowledge and skills in these areas.

Promotions. Promotions are made by the Union and State Governments generally on the recommendations of the Head of Departments, and sometimes with the aid of the advice of the concerned Public Service Commission. Confidential reports, which are filled up every six months, are the basis for promotion. Such promotions are usually made in accordance with the principle of seniority. For example, in the Assistants grade under the Union Government, one out of four vacancies is filled Ministry-wise by promotion from below the rank of Assistant on the basis of seniority-cum-efficiency after the eligible employees have successfully completed three years' service. In the same way, a portion of the vacancies in the Upper Division Clerks' grade is filled by promoting Lower Division Clerks on the basis of seniority-cum-merit. In addition to this practice, civil servants within the prescribed age-limits and other rules may also compete through examinations for higher grades and classes. In every grade there are efficiency bars which are generally allowed to be crossed without difficulty. Thus, in principal respects, our system is very much similar to that prevailing in the UK, but there is nothing like the promotion boards, which should be introduced with a view to ensuring greater fair-play and justice for the employees.

It was provided that the promotions in Class III and Class IV services were to be made on the basis of either seniority subject to the rejection of the unfit, or seniority, subject to the satisfaction of a minimum merit criterion. In promotions from Class III to Class II greater importance was intended to be given to merit and for promotions from Class II to Class I consideration was expected to be given to differences in the degree of merit such as 'outstanding', 'very good', and 'good'.¹ In Class I services, approximately 55 per cent of the posts are held by those directly recruited to that class, and the

¹See O.P. Motiwal, *Changing Aspects of Public Administration in India*, pp. 231-32.

rest are filled by promotion. The exact proportion of promotion posts varied from one service to another. Filling up of 25 to 33 per cent of the vacancies arising in a year by promotion is a common practice. In the Central Secretariat all the posts from Under Secretary upwards are promotion posts. In case of Section Officers, two-thirds of the number of vacancies are filled by promotion from Assistants. Similarly in the case of Assistants 50 per cent of the vacancies are filled by promotion from clerical grade I (UDC).

Political Rights of Government Servants. Public employees in India have the right to vote and form associations, but they are prohibited from participating in other political activities. Civil servants can neither become members of any political party nor subscribe to its funds. Government of India, however, welcomes all classes of their employees organising themselves in healthy association for promoting their legitimate interests in matters concerning their work and welfare. Some of the important rules of conduct prescribed for the civil servants and connected points are as follows :

(1) No government servant can be a member of or be otherwise associated with, any political party, or any organisation which takes part in politics nor can he take part in, subscribe in aid of, assist in any other manner any political movement or activity. Rule 4 of the Central Service (Conduct) Rules lays down that a government servant should not canvass or otherwise interfere or use his influence in connection with, or take part in any election to a legislative body. Further, seditious propaganda or the expression of disloyal sentiments by a government servant is regarded as sufficient ground for dispensing with his service.

(2) Rule 6 of the new Central Civil Service (Conduct) Rules 1964, prohibits government servants from joining only those associations, 'object or activities of which are prejudicial to interests of the sovereignty and integrity of India or public order or morality.'

(3) Moreover, the Government servants are also subject to certain special obligations. Sections of the Official Secret Act, 1923 prohibit the communication of any official document or information to any one whom they are not authorized to communicate. Rule 8 of the Central Civil Service (Conduct) Rules has similar provisions. In the interest of the integrity and discipline of the service, they are also prohibited to make public criticism of any policy pursued or decision taken by the Government. To ensure the security of the State, Clause 2 of Rule 5 of the Central Civil Service (Conduct) Rules requires the Government servants to endeavour to prevent any member of the

family from participating or assisting in any manner in activity which tends, directly or indirectly to be subversive of the Government as established by law.

(4) The Government of India do not object to officers broadcasting talks but point out : (a) that broadcast talks by government servants are 'public utterances' within the meaning of Government Servants Conduct Rules ; and (b) the talks differ from newspaper articles in that the Government of India have undertaken that the Indian State Broadcasting Service shall not be used for purposes of political propaganda. In comparison to the United Kingdom, the restrictions imposed on the political rights of the civil servants in India appear to be unduly severe and far behind the time. With the rapid increase in the scale and scope of public employment, the civil services in India have come to employ millions of people. The Government servants today are one of the most conscious and articulate sections of the population. To deprive all of them of any opportunity to participate in the debate on political issues which profoundly concern all would amount to 'disenfranchising' a large chunk of population.

'What may be sound and feasible in a homogeneous community like that in the United Kingdom, with a long-established tradition of democratic government, may not necessarily be sound and feasible in India.' The Commission came to the conclusion that 'Change or relaxation in the existing restriction on the political rights of civil servants would not be in public interest, or the interest of the employees themselves.' However, as regards 'non-industrial' civil servants, a beginning may be made by permitting them to participate in elections for local authorities. The Committee appointed by the State Government of Kerala to revise the service Rules, recommended granting of 'right to political activity' to civil servants of the State. This recommendation of the Committee is more or less on the lines of Britain's Masterman Committee (1948). In making the recommendation, the committee divided the civil servants into three horizontal groups—the top level officers, the middle level officers and the last grade officers. According to the Committee the top level officers, being associated with policy making, will not be allowed to take part in politics. The middle level officers will be given limited political freedom and allowed to contest elections to local bodies, while the last grade officers will be free to take part in political activities and seek election to Parliament and the State Legislatures. The Committee also recommended to liberalize restrictions on the Government servants' taking part in literary activities.

Do civil servants have the right to express themselves without inhibition on Government policies and their execution? Attention was focussed on the question, though not in such a large perspective, by a statement issued recently in Hyderabad by a senior IAS officer seconded to Andhra Pradesh. He was P. C. Parakh who was shifted abruptly and without much ceremony, from the post of Special Officer of the Hyderabad Municipal Corporation after a brief tenure of only five months. The municipal corporation was superseded in 1969 and true to the pattern in the rest of the country fresh elections were not held all these years. The ruling Telugu Desam promised in its election manifesto to undo the situation by organising an early poll to the civic body in the capital city.

More interestingly, A. V. S. Reddy who held the post for exactly two months last year had delivered himself of an "outburst" of which political overtones were read by his critics. He attracted newspaper headlines all over the country by his statement charging "political interference" in the functioning of officials and subservience by State rulers to their political overlords in New Delhi. Though he made the valid point that the officials' conduct rules were outdated, the way he worded his courageous statements smacked of echoing N. T. Rama Rao's criticism of the then State rulers. His "outburst" evoked angry reaction not only from Congress (I) elements but also from other. There were demands also for disciplinary action against him and the Vijaya Bhasker Reddy Government appeared to comply with them. But ultimately wiser counsels prevailed and Reddy was shifted to an unimportant position. Parakh who succeeded Reddy (and was himself replaced by the present Government on February 3) followed in his predecessor's footsteps. His statement was less provocative by confining itself to Hyderabad civic problems like widening of roads. But he made the moot point about the wisdom of frequent and abrupt transfers of officials in key positions and its impact on the morale of the civil service as a whole.

The Supreme Court gave a ruling on an appeal of the Patna secretariat ministerial officers' association which had unsuccessfully challenged the legality of an amendment of the Government servants' conduct rules banning demonstrations in connection with staff strikes. The upshot of the Supreme Court decision was that though strikes by Government servants were taboo, demonstrations in connection with such agitations could not be outlawed under conduct rules. In the course of the hearing of the appeal it was contended on behalf of the authorities that these were exceptions to the availability of fundamental

rights to government employees. For instance, those on election duty could not exercise their right of free speech and disclose the detail of secret balloting.

Responding to the argument, the Supreme Court judgment said : "Section 128 (1) of the Representation of the People Act, 1951, enjoins that every officer, clerk, agent etc. who performs any duty in connection with the recording or counting of votes at an election shall maintain the secrecy of the voting and shall not communicate to any person any information calculated to violate such secrecy....It cannot be contended that provisions on these or similar lines in these or other enactments restrict the freedom of the officers etc. merely because they are prohibited from communicating information which comes to them in the course of performance of duties of their office to others. The information having been obtained by them in the course of their duties by virtue of their official position, rules or provisions of the law prescribing the circumstances in which alone such information might be given out or used do not infringe the right of freedom of speech as guaranteed by the Constitution". (AIR 1962-1166).

In a later case in October 1962, another Supreme Court Bench consisting of Justices Gajendragadker, Wanchoo, Das Gupta and J. C. Shah reversed a Bombay High Court judgment endorsing punishment of a civil servant for participating in demonstrations in connection with a strike by Government employees. It reinforces the point eloquently made in the earlier verdict that in the exercise of fundamental rights under article 19 the civil servants are with the rest of the citizenry.¹

Joint Consultative Councils. On the lines of Whitely Councils in Britain, three types of Councils, i. e., National, Departmental, and Regional or Office, consisting of the representatives of the Government and its employees, were to be set up. The National Council, comprising of Cabinet Secretary as the Chairman and a leader from the staff side, is to deal with matters affecting Central Government employees generally, such as minimum remuneration, dearness allowance and pay of office clerks, peons, and the lower grades of workshop staffs, as also other matters relating to categories of staff common to two or more departments and not grouped together in a single departmental council. The Council will not deal with matters of interest to employees of a single department. The Council may have two standing committees, one dealing with matters relating to non-

¹G.S. Bhargava, 'Civil Servants and Fundamental Rights', Indian Express, 22 Feb. 1983.

industrial staff and the other concerning industrial staff. The Departmental Council is to be headed by the official head of the Ministry or Department and will deal only with matters affecting staff employed in the department or departments concerned. This Council will normally be set up for each department except in the cases of two or more small departments under a Ministry especially if the nature of duties in the departments is similar. The Regional and/or Office Council constituted under the chairmanship of the Head of the Department, where the structure of a department permits the setting up of such councils, will deal with only regional/local questions.

Among others, the Councils will deal with all matters relating to conditions of service and work, welfare of the employees, and improvement of efficiency and standards of work, provided, that (a) in regard to recruitment, promotion and discipline, consultation will be limited to matters of general principles; and (b) individual cases will not be considered. Subject to the final authority of the Cabinet, agreements reached between the two sides of a Council will become operative. In the case of disagreement the matter will be transmitted to a committee set up by the Council for further examination and report. But if a final disagreement is recorded, and the matter is one for which compulsory arbitration is provided, it shall be referred to the Board of Arbitration, if so desired by either side. In other cases, the Government will take action according to its own judgment.

IV. Relationship Between Ministers and Civil Servants

Concept of Neutrality and its Application. The theory and practice of parliamentary government is that decisions are taken by Ministers and the Civil Servants supply the Minister with the information necessary for coming to a right decision. From this general proposition there follow certain consequences which have become accepted maxims in the United Kingdom : (1) The Civil Servant must place before his Chief the arguments on both sides of the case, fully and fairly. (2) When the decision is once taken, he must loyally carry out the policy chosen, even though he may have preferred a different one. (3) The civil service is responsible for continuity of policy, or such continuity as is possible under our system of party government. (4) The civil servant must observe absolute silence and discretion as to what occurs in the office. The decision when once taken is that of the Minister of a Cabinet, and it is contrary to tradition for a civil servant to take credit for any measure accepted by Parliament, though he may in fact have been author of it.¹

¹Theodore Morrison, *Civil Service Tradition*, pp. 155-56.

In India the relations between the Ministers and Civil Servants have not been, as they should be for the following reasons : (i) Ministers do not often appreciate the value of independent advice, when such advice is unpalatable to them, they rather think that civil servants are putting hurdles. (ii) Some officers are in the habit of criticising individual ministers or their policies in private and in social circles. (iii) The right-left controversy within the Congress Party itself also played its part in not allowing the proper relations between ministers and secretaries to grow. If a particular Minister was known to be belonging to the left wing of the Congress, the senior officers attached to his ministry were very cautious in their loyalty to the Minister, because they feared that if they were very loyal to him, they would be termed as his men ; and if the Minister went out and the new Minister, who took his place, belonged to the right wing, the latter would not repose his confidence in the officers who were known to be the favourites of the former Minister. This had been the unfortunate experience of many senior officers in the Union Government. (iv) There is also lack of proper understanding of their respective roles on the part of ministers and secretaries both. Ministers in their zeal have been known to interfere in the petty matters of the department ; secretaries, on the other hand, put through 'half-baked' proposals before the ministers or do not bring to their notice such letters or correspondence as are of important nature. Proper relations cannot grow if either side does not appreciate the correct position,

It is not only for political reasons that ministers interfere in day-to-day administration. They also do so for obliging friends and accommodating caste and regional interests. The growth of factions within the single ruling party and the advent of coalition governments brought continuing and increased pressures on the senior civil servants for bestowing favours and concessions which ministers wished to show to their supporters and party-men. The increasing 'political' interference by the ministers obviously lowered the morale of the civil services. Civil servants were named quite a few times in discussions in the legislatures, thereby undermining the doctrine of anonymity of the civil service. There has been a growing inclination among some civil servants to curry favour with ministers with a view to securing a suitable placement or advancement in their career, waiving of penalties imposed or likely to be imposed on them, or obtaining lucrative employment after retirement. Some senior civil servants would even try to anticipate the minister's wishes and colour their advice accordingly. One of the underlying causes for this development is that

many ministers judge the civil servants not by their administrative competence but by their willingness and ability to do things which the ministers wish them to do, no matter whether these are regular or not.

The Administrative Reforms Commission pointed out : 'There is a disinclination among quite a number of ministers to welcome frank and impartial advice ... Instances are not wanting of ministers preferring a convenient subordinate to a strong one, thereby making the latter not only ineffective but a sulky and unwilling worker.' There is said to be an increasing tendency in the States for the ministers to have direct dealings with the heads of executive departments, keeping the secretary out of the picture. Political interference has also resulted in loss of confidence of the people in getting a fair deal from the administration.

The ARC thought that such a relationship could be regulated only if certain general considerations are accepted both by the political leaders as well as the civil servants. Both of them should clearly and sympathetically appreciate the role of the other, and attempt at a maximum accommodation of each other's view. On the part of the political executive there should be in its words : (a) a proper understanding of the administrative functions and recognition of its professional nature ; (b) as little interference as possible in service matters e.g., postings, transfers, promotions, etc, and discouraging officers of the department to see him personally for redress of service grievances ; and (c) there should be no requests for departures from declared and approved policies to suit individual cases either as a result of political considerations, or other considerations, which cannot be reduced to general principles of action.'

Similarly on the part of the services it asserts : (a) there must be a sincere and honest attempt to find out what the political head wants and make the necessary adjustment in policies and procedures to suit his wishes ; (b) readiness to fall in with his political chief in all matters, unless strong grounds indicate a different course. In such a case he should politely indicate his dissent and if he is overruled in writing, he should willingly carry out his orders ; and finally, the ministers in charge of a department, it frequently happens that the head of the department and the Secretary are different individuals, frequently they differ in the advice they give. In such case the best course is for personal discussion with both, frequently in each other's presence, and no Secretary should consider such action as an encroachment on his personal relationship with his minister.

Committed Bureaucracy. The traditional concept of political neutrality of the civil servant has been questioned on the ground that without the necessary political motivation, the civil service cannot succeed as an instrument of rapid progress in an underdeveloped country towards national objectives. Loosely this idea is conveyed, in the idiom of sundry politicians, by the term, 'committed bureaucracy'. In his presidential address to the Bombay Session of the Congress in 1970, Jagjivan Ram, then President of the Congress, had observed: 'In a country which has stagnated for centuries and where centuries of delayed progress are sought to be compressed into decades, where the pace of economic change has to be accelerated beyond measure, the so-called neutral administrative machinery is a hindrance, not a help. The theory, moreover, is hardly relevant to Indian conditions.'

The above observation and some earlier references to committed civil servants in the speeches of the Prime Minister gave rise to a controversy on the subject. The following quotation from a memorandum by members of Parliament led to a debate in the press and journals. 'The real problem boils down to the need for building up of a fairly large group of professional experts who have a vision, expertise, sense of commitment and the requisite zeal for pursuing various new programmes. The immediate need is to fill important positions in the public sector and economic Ministries by a committed professional cadre. The need to inject new talented youngmen at various strategic levels of policy making cannot be over-emphasised. It is at this point that a host of problems has to be faced in changing the old and presently continuing pattern of manning top administrative and advisory positions by civil servants in the Government'.

Any commitment on the part of the civil servants to political ideologies which keep changing so fast is fraught with the gravest danger to the stability of administration and the country itself. It is also bound to be most harmful to the interests of the people. Grounds for our opposition to this idea may briefly be stated as : (i) No political ideology can claim a monopoly of political wisdom ; moreover, there is no finality about any political ideology. Take, for example, 'socialism', there are several brands of socialism. (ii) It is better to leave policies to the politicians, because commitment to one brand means rejection of others. (iii) In the recent past the number of splinter parties has been increasing ; with that trend single-party ministry and stability of government is likely to become a thing of the past particularly in some of the States. So far as the growth of our party system is concerned, we are moving fast in the direction of

the French system, which is the opposite of the British system, so much cherished by us. (iv) Committed bureaucracy is an important characteristic of a dictatorial regime, particularly of the Communist states.

In a democracy commitment on the part of civil servants is possible only in a particular sense. The civil servants should be committed deeply, and they should be encouraged to remain so to a sense of discipline and hard work in the interest of the nation. It would be in the best interest of all, if they commit themselves to the high ideals of democracy and justice--both social and economic—enshrined in our Constitution. At the same time there should be a basic professional honesty, which means an ability to remain above pressures of any kind under successive regimes of varying political shades. As in France, the Civil Services in India should keep the country going, without being committed to any political ideology, but always keeping in mind the code of professional ethics. 'Their job is to give frank advice, but they must feel committed to the objectives of the State which have been approved by Parliament. They should have unreserved faith in the programmes which they administer. An official who has no active faith in secularism cannot deal with the communal problem. We must all have a commitment to the development of the country and sense of personal involvement with the welfare of our people.'

In a letter to all Secretaries to the Government in August 1977, the Cabinet Secretary, expressed the feeling that the implications of the political change in the country which brought the Janata Party to power had not been fully appreciated or incorporated in the thinking and working at the official level. He, therefore, asked the civil servants to fully familiarise themselves with the political philosophy, objectives and approach of the Janata Government to economic and administrative matters which are naturally different from those of the previous government.

It was rightly commented on the above: 'Civil servants in a democracy are expected to keep aloof from party politics, explain the pros and cons of the various options open to the government whenever their advice is sought, and scrupulously carry out a policy decision once it has been made even when it is contrary to what they believe is right. Thus the very concept of a bureaucracy committed to the party in power is alien to a democratic policy. In calling upon public servants to familiarise themselves fully with the 'philosophy' and the election manifesto of the Janata Party the other day, the

cabinet Secretary, N.K. Mukerji, has unwittingly revived this concept. In all probability nothing was farther from his mind than this. Still the circular issued by him is not happily worded.¹

V. Reservation of Posts

The manner in which the State carries out its obligation to reserve posts for the scheduled castes and tribes in the public services in case of inadequate representation and to consider their claims consistent with the maintenance of efficiency of administration has been left outside the purview of obligatory consultation with the Public Service Commission (Article 32 (4)). For the scheduled castes, reservation is 15 per cent of the vacancies for which recruitment is made by open competition on all-India basis and $16\frac{2}{3}$ per cent of the vacancies to which recruitment is made otherwise ; for the scheduled tribes, the reservation is $7\frac{1}{2}$ per cent in both cases. Reservations in direct recruitment to Class III and IV posts, which normally attract candidates from a locality or region, are fixed in proportion to the population of the scheduled castes and scheduled tribes in the respective States and Union Territories.

Reservation is also made at 15 per cent of the vacancies for the scheduled castes and $7\frac{1}{2}$ per cent for the scheduled tribes in promotions on the results of the competitive examinations limited to departmental candidates in Classes II, III and IV and to the lowest rung of class I in grades or services to which direct recruitment, if any, does not exceed 50 per cent. Reservation has also been provided for scheduled castes and scheduled tribes in promotion on the basis of seniority subject to fitness in Class I, II, III and IV posts in grades or services to which direct recruitment, if any, does not exceed 50 per cent. In promotion by selection within Class I to posts carrying an ultimate salary of Rs. 2,250 p.m. or less, the scheduled castes and tribes officers, who are senior enough in the zone of consideration for promotion and are within the number of vacancies for which the select list has to be drawn, are included in that list provided they are not considered unfit for promotion.

To facilitate their adequate representation, concessions such as (i) relaxation in age limit, (ii) relaxation in the standard of suitability, (iii) selection, provided they are not found unfit for the posts, (iv) relaxation of the qualification regarding 'experience' in the case of candidates of the scheduled castes and scheduled tribes, wherever

¹*Times of India*, 29 Aug., 1977.

necessary, and (v) inclusion of scientific and technical posts up to the lowest grade of Class I required for research, in the scheme of reservation have been provided for. If no suitable scheduled caste or scheduled tribe candidates are available for the reserved posts, they are treated as unreserved and an equal number of reservations are carried forward to three recruitment years. In no recruitment year, however, the number of reserved vacancies is to exceed 50 per cent of the total vacancies.

To give effect to the reservation model rosters of 40 point each have been prescribed for recruitment by open competition and otherwise on an all-India basis. If the vacancies in a service or cadre are too few for the purpose, all corresponding posts are grouped together. Annual statements are required to be submitted by the recruiting authorities for scrutiny by the government. For ensuring implementation of the special representation orders, liaison officers have been appointed in different ministries of the Union Government. A high power committee, with Prime Minister as the Chairman, has been set up to review the progress of employment of the scheduled castes and scheduled tribes under the Government of India, the Union Territories and public sector undertakings. State Governments have also framed rules for the reservation of posts for scheduled castes and scheduled tribes. The Annual Report of Department of Personnel of the Cabinet Secretariat reveals that the percentages of reservations in service of the Union Government prescribed for scheduled castes and scheduled tribes are now slightly higher than their percentage in the total population. The percentage of scheduled castes and tribes in the population is 14.6 and 6.94 respectively, according to the 1971 census. In direct recruitment on an all-India basis by open competition through UPSC or by means of competitive tests, the current percentage of reservation is 15 for scheduled castes and 7 for scheduled tribes. The Government has fixed a still higher reservation percentage of 16.65 for scheduled castes and 7.5 for scheduled tribes for services by direct recruitment through channels other than the UPSC.¹

After the commencement of the Constitution, a number of cases came up for decision before the Supreme Court in which the question of interpretation of the special provision relating to the scheduled castes and backward classes had arisen. The first important case arose in 1951, in which the Court was called upon to pronounce their verdict on the validity of a communal G.O. of the Government of

¹I.I.P.A., Newsletter, April, 1975.

Madras, which, besides making reservation for Harijans and backward Hindus, also provided reservation for other communities, viz. Muslims, Hindus, Non-Brahmins and Christians, etc. As the special reservation has to be made in favour of the backward classes alone, the said G.O. was struck down by the Supreme Court as repugnant to article 16(1) of the Constitution.

The intention of the Constitution makers was not to provide for reservation under article 16(4) for different communities either on the basis of caste or community, etc., as it would amount to a system of communal reservation prevalent before the Constitution came into existence. What they intended was to provide for a general equality of opportunity for all citizens without making any discrimination whatsoever in favour of any class of citizens. But there has been a divergence of opinion among the various High Courts on the interpretation of these identical terms, i.e. 'appointment and posts' and 'matters relating to employment or appointments.' While some held the view that equality of opportunity to be given to a civil servant only at the time of appointment, others held that a civil servant has a fundamental right to have an equality of opportunity not only at the time of initial appointment but also throughout his period of employment.

One similar aspect of the problem recently came to the surface in Bihar, where the State Government fixed a quota of 26 per cent for the backward classes. People feel that backwardness should not be judged by caste-factor but should be determined by the economic condition of an individual. This led to widespread riots in the State. In the traumatic aftermath of the anti-reservation agitation in Gujarat, the State's Chief Minister suggested the appointment of a Commission for a thorough inquiry into the issues at stake. 'Indeed, it is time the importance of rewarding merit, regardless of caste, in the public service is once again duly recognised and all kinds of privileges that are being accorded to the so-called backward classes, which are no longer backward in either political or economic terms, are also gradually withdrawn. Once this is done, the distortions that have crept into the policy on reservation for scheduled castes and tribes will be much easier to correct'.¹

The high-power panel, headed by Dr. Gopal Singh, is understood to have recommended allocation of 40 per cent of the Sixth Plan outlay

¹K.C. Khanna, 'The Policy on Reservations: Need to Correct Distortions,' Times of India, 27 April, 1981.

for the development of regions dominated by minorities, Scheduled Castes, Scheduled Tribes and other weaker sections. In its first report on "Fiscal disabilities" of these communities the panel is believed to have suggested formulation of a 20-year plan to eradicate poverty. While expressing itself against any reservation on the basis of caste, religion, region or backwardness so far as the armed forces and Class I services are concerned, the panel feels that general instructions should be issued to give equitable and just representation in various services to candidates with above 60 per cent marks even if it meant a marginal concession in their favour. In regard to Class III and Class IV posts, the panel has suggested that the recruiting authorities be generally instructed that minorities should be represented according to their population with the option to compete for some posts. This should apply to public sector undertakings also. The panel was understood to have suggested that Rs. 1,000 crores should be set apart in the Sixth Plan to give scholarships to members of these communities who secure admission to technical institutions and universities and whose family income does not exceed Rs. 12,000 a year.

Backward Classes Commission. The Mandal Commission, set up by the Government of India, to examine the question of reservation of jobs for backward classes, tabled its reports simultaneously in Lok Sabha and Rajya Sabha on 30 April 1982. Besides asking for the creation of a separate ministry for backward classes in the Centre and States, the report calls for reservation to the extent of 27 per cent in Central and State Government services, public undertakings and educational institutions for 3,743 castes, both Hindu and non-Hindus, which have been grouped under the category of backward classes.

The report has observed that backward classes other than scheduled castes and scheduled tribes actually totalled 25 per cent of the population and a reservation of this order alone would meet the ends of natural justice. It, however, pegged the reservation at a lower level in view of the Supreme Court's judgment that the total reservation should not exceed 50 per cent so as not to violate the provisions of articles 15(4) and 16(4) of the Constitution. Since scheduled castes and scheduled tribes already enjoy statutory reservation up to 25.5 per cent, it has been obliged to suggest only 27 per cent for other backward classes.

In order to ensure that the benefits flowing from reservation policy reach the concerned section, the commission has suggested the following five-fold scheme : (1) Candidates belonging to backward classes recruited on the basis of merit in open competition should not

be adjusted against their reservation quota of 27 per cent; (2) The above reservation should also be made applicable to promotion quota at all levels; (3) Reserved quota remaining unfulfilled should be carried forward for a period of three years and de-reserved thereafter; (4) Relaxation in upper age limit for direct recruitment should be extended to these classes in the same manner as for SCs and STs; and (5) A roster system for each category of posts should be adopted by the concerned authorities as was being done for SCs and STs.

In substance, the Commission's case is that there can be no equality of opportunity between unequals. This strikes at the very heart of the concept of social democracy which rests on the assumption that equality of opportunity in terms of education will over a period of time reduce disparities and eliminate injustice. The Commission does not advocate a Mao-type cultural revolution where the sons and daughters of the "privileged" are even denied admission to schools and colleges. But its prescription is only a little less drastic. The consequences in China have been terrible.

Though the Mandal commission has included in its list of other backward classes some Muslim and Christian groups, 95 per cent of the members of these communities are ranked with high caste. Hindus as forward classes. The classification is clearly based not on any economic criterion, but on historical and social considerations which have little relevance in a democratic and rapidly changing India.¹

Criticism of the Report. The Mandal commission's proposals on reservations for backward classes must be rejected outright. They are an extraordinarily blatant attempt, under the guise of advocating positive discrimination, to secure for over half the population (by no means all of it the poorer half) statutorily inbuilt preferences not only in public jobs and education but even in private units that are government-aided. What is more, this institutionalised favouritism, by which the commission wants to cover not only initial appointments but promotions at all levels as well, will, in effect, be in perpetuity.... 'Even with Harijans and tribals, where reservations are justified for social, economic and historical reasons, public sentiment is turning against positive discrimination in their favour. Conferring state favours on the so-called backward classes when there can be no conceivable justification for doing so would entrench casteism, undermine all attempts to build a meritocracy, and cause such profound

¹ 'Merit versus Equality of Opportunity', comments, Times of India, 6 June 1982.

cleavages at a time of intensifying economic competitiveness as to rend the social fabric asunder. The Union and state governments should give the Mandal report the short shrift it deserves.¹

'It is said that extensive reservations will lead to decline in the efficiency of our public institutions. There are other, more important, consequences to be considered. Reservations on the scale being proposed will alter the character and not merely reduce the efficiency of these institutions.... It may be legitimate for a member to represent the interests of his caste or community in a legislative assembly. Can we legitimise the representation of caste interests in institutions such as the universities without changing their character altogether? The maintenance of efficiency, is, in my judgment, more important than the protection of the very norms by which alone such institutions can be governed.'- The minorities Commission also expressed itself firmly against grant of reservations to backward classes. It took the stand that acceptance of the recommendations would not only go against the spirit of the Constitution but would also encourage divisive forces.³

VI. Concluding Observations and Suggestions

Specialists vs. Generalists. Discussions with several technocrats brought out sharply the points which agitate the specialists. The new techniques which in the course of normal engineering development have proved their utility, are not cleared by the bureaucrat administrators except after time-consuming discussions, laborious paper work and unnecessary red-tape. The technocrats attribute this to the fact that the IAS officers are trained for a 'law and order' approach. They are unable to plan ahead and innovate, allowing things to reach crisis proportions before acting. They agree there are bright exceptions. Engineer K.L. Rao, who was central minister for ten years said : 'The trouble with the present generalist administration is that there is no specialisation and the administrators do not remain in one place—they are incharge of steel today, petroleum tomorrow and coal the next day.' He dismissed the allegation that technically qualified people tended to have a narrow perspective and outlook and were, therefore, unsuitable for administrative jobs. Elucidating the point, he said, engineering was a discipline which required systematic study and application of principles. An engineer was, therefore,

¹*'Wholly Unacceptable,'* editorial, *Times of India*, 5 May 1982.

²Andre Beteille, '*Indian Road to Equality; Rehabilitation of Caste System*', *Times of India*, 30 Aug. 1982.

³*Times of India*, 3 Oct. 1982.

capable of doing things in a disciplined and orderly manner without losing sight of the objectives and social needs.

'I would like to correct the impression, if any, created by my presentation that only if higher status and emoluments are granted to the 'Specialists', the generalists versus specialists controversy would automatically disappear. While it was not my intention to go into the question of status and salary yet it so happens that the functions, the role and the authority exercised by different groups of functionaries in the Government are often related to their status and salaries. When we talk of the role and contribution of specialists in public administration, the importance assigned to their role and the authority delegated for discharge of their functions have invariably to be considered.¹

In the existing socio-economic and political circumstances, the following suggestions should be implemented: (1) It should be recognized that in the present-day Indian context no particular class of functionaries can claim a monopoly of managerial skills and higher administrative capacities. This recognition is in fact implicit in the Cabinet orders of 1957 and Finance Minister's announcement in Lok Sabha in 1973 that officers of all services are eligible for top Secretariat appointments. However, it is the actual implementation of these orders which has left much to be desired. (2) It should be accepted that in a development oriented multi-disciplinary administrative set-up there can be no discrimination between functionaries on the basis of their service labels. The real distinction should be between the competent and the incompetent, between the dedicated hard-worker and the time-passer. (3) It should be recognised that if the country has to derive the maximum benefit from the services of 'Specialists' they should be adequately motivated. This motivation does not necessarily come from monetary incentives; it comes from a sense of equality with others, a sense of dignity and legitimate pride in the profession and a sense of involvement in the shaping of the destiny of our country in the development of which we are all engaged. This recognition by the Government is clearly discernible in the public enterprises, but in the biggest holding company which the Central Secretariat undoubtedly is, this realisation has yet to come.

Fulton Committee Report : U.K. In the very opening chapter

¹A.P. Paracer, 'Role of Generalists and Specialists in Public Administration', I.J.P.A., April-June 1975, 205.

of the Report the Committee sharply pinpoints drawbacks of the Home Civil Services. It is seen as being 'still fundamentally the product of the nineteenth century philosophy of the Northcote-Trevelyan Report and inadequate in several respects for performance of its twentieth century tasks.' Having laid down this basic philosophy the Committee proceeded to highlight five major defects of the existing civil service : (1) The civil service is still based on the cult of generalist, which is obsolete at all levels and in all parts of the service. (2) The system of classes leads to rigid compartmentalisation, both vertically as well as horizontally. So the present system of classes (there are over 1,400) should be abolished and replaced by a single unified grading structure. (3) The specialists are not able to make their full contribution to management as well as policy-making under the existing set-up. (4) Too few civil servants are skilled managers. (5) The service is cut off from the community by narrow social background and limited experience of life outside White-hall.

The remedy, as the Committee saw it, lies in making the civil service more 'professional'. This goal could be achieved by changes in criteria for recruitment, improved training, greater specialization within administration, and better use of professionally qualified personnel. As a corollary to this, the Committee has urged to bring about certain changes in the recruitment policy. It is of the view that in future men and women should not be recruited for employment as generalist administrators and intelligent all-rounders, but to do a specified range of jobs in a particular area of work, at least in their early years. The Committee, however, could not come to an agreement on the issue of the relevance of the subjects of university or pre-entry studies as an essential ingredient of qualification for appointment. Since the structure of the civil service in India is based on the British system, it is very much similar to that. The defects, as pointed out by the Committee, are also found in the Indian system. It is, therefore, quite natural the remedy suggested for reforming the British system should be equally applicable to the Indian system. The two most noteworthy recommendations are : (1) making the civil service more professional ; and (2) creation of a single unified gradings tructure.

Reasons for Bad Administration. Bad administration of even a good policy is apt to spell misery and hardship. The civil service, under the pretext of political neutrality, should not lose sight of the spirit pervading a policy. There are innumerable instances in India of policies being implemented in such a way that the original purpose

underlying them was completely defeated. The national policy regarding the gradual adoption of Hindi as the official language did not make much headway because the civil servants have no faith in it.

'The country's bureaucracy suffers from lack of professionalism and achievement-orientation, not lack of competence. In sheer intellectual attainments, it can hardly be surpassed by any other profession in the land, but its besetting sin, today, is rampant careerism, which has enfeebled its sensitivity to public interest. The political executive must set an example to others by its devotion to public interest, integrity, hard work, sincerity of purpose, austerity and firmness. It must itself practise what it professes ; it cannot be permitted to have a duplicate character—one private and another public. An effective remedy may lie in a suitable strengthening, both qualitative and quantitative, of the political wing of the government. Each ministry should have, in addition to the minister, a few junior ministers, depending upon the nature, variety and volume of work. The political wing should, with crusader's zeal, address itself to the task of laying down, in full consultation with the civil service, clearly defined policies, preparing time bound programmes compatible with these policies, and overseeing their implementation in accordance with the time-schedule.¹

Politicisation of Bureaucracy and Corruption. Since the advent of the Congress (I) to power in 1980, what may be loosely described as the 'politicalisation of the bureaucracy' has been carried a stage further. Many men connected with the emergency were rewarded in some way. Most officials who served the Janata-Lok Dal regimes in key jobs were bundled out, often without the slightest regard for their personal convenience, time-honoured usage, courtesy or decorum. In the States, the mass transfer of bureaucrats is no longer limited to higher ranks. It involves thousands of minor minions, too. And it has been vitiated by a new element—corruption. One had heard of corrupt police officials exacting a price for posting an underling to a "lucrative" thana. In Madhya Pradesh, for instance, every MLA was reported to have been given the right to recommend the transfer of two officials in every department.

All in all, the outlook is grim as the bureaucracy has come to be bedevilled by the evils that afflict the society as a whole : drift, corruption, fragmentation and cynical pursuit of self-interest. It is

¹See 'The Indian Bureaucracy', I.J.P.S. July-Sep. 1970, pp. 231-36.

no longer what it was till the mid-seventies ; an island of privilege and power, protected in its subordinate role to the politician by shared idealism, its system of recruitment and training, a rigid hierarchical order *esprit de corps*.

Three Other Factors—for Fall in Efficiency. At least three other factors have escalated its slide down hill. First, the quality of the Indian Administrative Service, which is still nominally at the top of the heap, has been deeply eroded by the triple process of promotion from subordinate services, reservations for scheduled castes and tribes not only in the initial stages but almost all along the line, and reckless expansion. Till the mid-fifties only about 35 men and women were recruited to the IAS every year. Now this number has nearly quadrupled. Secondly, the IAS is laterally under pressure from the technical services and perhaps rightly so. For, the tasks of government are getting increasingly complex and there is no reason why specialists in such diverse fields as the railways, income tax, engineering, tourism, medicine, geology and so on should be permanently assigned a status inferior to that of the generalists in the IAS. Finally, the value system of the society has irretrievably changed ; the best minds in the country are no longer going into government service but into business and industry, where the rewards are higher and the scope for creative endeavour almost as good, if not actually greater. Politicians take to politics not for the pay they can hope to get as MLAs, MPs or ministers but for the pelf, legitimate and illegitimate, that such positions command. They are strongly tempted in the circumstances to transform the public services into their own mirror-image.¹

Need for a Single Unified Service. For political reasons, the ICS during pre-independence days enjoyed a special status and privileges and the generalist services even today have greater influence than others. Thus even after Independence there has been no integration of these generalist services and compartmentalisation of services as Administrative, Audit and Accounts, Customs, Income Tax, etc. is considered unnecessary. The advantage of having a single civil service would, it is considered, far outweigh the technical refinement of compartmentalisation and would make for greater mobility and healthy interaction. After initial recruitment, training programmes have to be adjusted for this purpose. Asok Chanda has suggested a common civil service divided vertically with common competitive

¹K.C. Khanna, 'Taming The Bureaucracy : From Subordination to Subservience', 25 Nov. 1980.

examination for recruitment and subsequent allotment and transfer from one department to another,

Suggestions in the ARC Report. The report of the Administrative Reforms Commission on 'Personnel Administration (1969)' suggested that every government servant should, before entering upon service, sign a pledge that he will under no circumstances resort to strikes. It also urged the adoption of the Essential Service Maintenance Act, 1968, by the State Governments. The Commission, however, felt that there should be adequate machinery for redress of employees' grievances. With this end in view, it suggested the strengthening of the Joint Consultative Machinery and appointment of Civil Service Tribunals. But no person who is not serving under the Government should be eligible for election to the Joint Consultative Bodies, union or associations of government servants,

Among the other major recommendations made by the Commission are : (1) A functional field must be carved out for the Indian Administrative Service (IAS). This could consist of land revenue administration, exercise of magisterial functions and regulatory work in the States in fields other than those looked after by other functional services. (2) The posts at the level of Deputy Secretary or equivalent at the Central Headquarters, which do not fall within a particular functional area, should be demarcated into different areas of specialisms as follows : (i) Economic-Administration, (ii) Industrial Administration, (iii) Agricultural and Rural Development Administration, (iv) Social and Educational Administration, (v) Defence Administration and Internal Security, and (vi) Planning. (3) The posts in the civil service should be grouped into grades so that all those which call for similar qualifications and similar difficulties and responsibilities are grouped in the same grade. The number of such grades may be between 20 and 25, (4) All the Class I posts may be evaluated and assigned to, say 9, common pay scales. These nine grades or pay scales may be divided into three levels, namely, junior, middle, and senior. (5) The Department of Personnel should undertake urgently a detailed study for the purpose of determining the grades as well as the posts to which they should be attached. (6) The recruitment to Class I Engineering posts should, as far as possible, be made only through competitive examination, and the selection after a simple interview should be restricted to cases where some prior experience or special qualifications other than the basic degree are required or where new projects are to be undertaken at short notice. (7) For the Indian Administrative Service/Indian Foreign Service and other non-

technical Class I Service, recruitment should be made only through a single competitive examination, it being left to the candidates to express their order of preference for the different services. (8) The subjects to be offered at the combined competitive examination for non-technical Services may include engineering subjects as well as subjects relevant to a medical degree. (9) Provision should be made for appointment to technical posts at the senior levels of persons of proved competence from universities and industrial and commercial concerns, etc., if the capabilities and expertise possessed by them are needed and are not available within the ranks of the Civil Service. (10) There should be a provision for recruiting from the personnel of the State Governments for Central posts in organisations like the Secretariat, and the Departments of Agriculture and Education, etc. (11) Government should, with the assistance of experienced administrators and experts in training techniques, formulate a clearcut and farsighted national policy on civil service training, setting out objectives and priorities and guidelines for preparation of training plans. (12) Senior management education and preparation should be largely oriented towards policy-making, programme planning and review, and problem solving ; (13) Persons who are marked out for senior management should be attached to professional institutions for pursuing the programmes of advanced study. Part A of this programme may be arranged with the assistance of the Indian Institute of Public Administration ; and Part B at other institutions like the Institute of Management at Ahmedabad and Calcutta, Administrative Staff College, Hyderabad, the Institute of Economic Growth, etc. which specialise in the area which would be of interest to the officials concerned. (14) Departmental Promotion Committee should be constituted, wherever they do not exist now, for appraising the merits of the persons concerned for promotion. (15) The annual report may be called 'Performance Report' in place of 'Confidential Report'.

Electoral System and Voting Behaviour

I. Main Provisions and General Elections

Adult Suffrage. The election to the Lok Sabha and to the Legislative Assemblies (Vidhan Sabhas) is to be held on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than 21 years of age (and is not otherwise disqualified) under the Constitution or any law made by the appropriate legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, is entitled to be registered as a voter at any such election.¹ This provision determined the basic character of the electoral system. 'It was, as the Election Commission stated, an 'act of faith', a bold move that some regarded as a desperate gamble that was likely to fail and others as convincing proof that all citizens would be given the opportunity to shape their own political destiny. This basic and historic decision did much to shape the character of the electoral system and to plan that system solidly at the centre of the political system.'²

One General Electoral Roll. Article 325 provides for one general electoral roll for every territorial constituency for election to either House of Parliament or either House of the Legislature of a State. As a result of this provision the system of separate or communal electorates which was introduced by the British rulers in 1909 and which became the most important factor responsible for the rise of communalism and partition of the country, was abolished. The framers of the Constitution rightly believed that this provision was bound to promote communal harmony and national integration. This may, therefore, be regarded as the second basic provision governing the electoral system of the country.

¹Article 326.

²M. Pattabhiram, *General Elections in India*, p. 2.

Delimitation of Constituencies. The delimitation of constituencies is entrusted to a Delimitation Commission, set up under the Delimitation Commission Act of 1952. For purposes of election the states are divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the state. The allocation of Lok Sabha seats to the States as well as the Assembly seats, and the division of each State into territorial constituencies is readjusted after every census. All of the constituencies for the Lok Sabha and State Legislative Assemblies are now single-member constituencies. Delimitation of constituencies demands periodic revisions because of (a) the changing population, (b) constant shifting of population from one area to another and, (c) constant urbanisation. After the publication of decennial census figures for 1961, Parliament enacted the Delimitation Act, 1962 to readjust the allocation of seats in the Lok Sabha to the several States and to determine the total number of seats in the Assembly of each State and division of each State into territorial constituencies.

Powers of Parliament and State Legislatures with respect to such Elections. Subject to the provisions of Constitution, Parliament may from time to time by law make provision with respect to all matters relating to or in connection with election to either House of Parliament or to the legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses. Further, subject to the provisions of the Constitution and in so far as provisions in this behalf are not made by Parliament, the Legislature of a State may from time to time by law make provision with respect to all matters relating to, or in connection with the election to the legislature.¹

Bar to Interference by Courts. The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies made under article 327 and 328 cannot be called in question in any courts. No election to either House of Parliament or any State legislature can be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate legislature.²

¹Articles 327 and 328.

²Article 329. For Election Commission and Election Disputes, see section II and IV respectively.

GENERAL ELECTIONS

Importance. Elections have become 'a part and parcel of the Indian political life.' This is a noteworthy political fact, which is 'particularly surprising in view of the limited electoral experience in India prior to the first general elections in 1951-52, the relatively short time that has elapsed since the first general elections, and, above all, the difficulties in grafting a system of universal adult franchise on to a new polity in an ancient, heterogeneous, basically traditional, and in many respects highly undemocratic social system. 'Elections in India, whether for local, State, or national office, are massive spectacles, or 'tamashas'. They serve important social and entertainment functions, and they also mobilize millions of people into the political process . . . As long as the Indian political system survives in its present form, elections will continue to be among its essential characteristics.¹

Quite naturally the first general elections, in 1951-2, were attended by greater excitement and uncertainty than any of the following elections. They were an unfamiliar experience for most of the voters and for the political parties. They attracted world-wide interest, both because of their magnitude and uniqueness, and because they might provide some indication of the prospects for democracy in politically inexperienced, economically under-developed, and socially conservative developing countries. In its report on the first general elections the Election Commission of India observed that it was "a great and fateful experiment, unique in the world in its stupendousness and complexities." The second general elections were held during a period of three weeks, from 24 February to 14 March 1957. Preparation for these elections was an easier task than for the first general elections, even though the electorate had increased by nearly two crores. "Even more than in 1951-52 the second general election was an election without issues, as far as national politics were concerned."

'On the whole, there was a general feeling that Indian democracy was stronger after the second general elections, that the successful conduct of its second mass experiment in democracy had confirmed the positive impact of the first. The second general elections served to teach the vast number of uneducated voters what the vote means, the second general elections familiarized them with the exercise thereof with discrimination and understanding. Some observers, how-

¹Norman D. Palmer, *Elections and Political Development—The South Asian Experience*, pp. 6-16 and 21-2.

ever held a more critical view. To them the second elections had revealed some alarming trends in the Indian political system.¹

The 1962 general elections were the third to be held in India since Independence. The electorate consisted of 218 million adults and they went to the polls in February 1962. That the elections were held throughout the country without any ugly incidents is proof of the fact that the nation believed in parliamentary democracy and that there was complete political stability. The total number of electors on the rolls at the time of the 1962 general elections for all the constituencies in India was 211,216,285. This was 49.91 per cent of the total population as ascertained at the census of 1961. Three general elections held so far, had been orderly and peaceful on the whole. There was not much need for police intervention to preserve peace. Voters showed real interest in elections ; and they voted in large numbers. All important shades of opinion found representation in legislatures. Voters generally showed their antipathy to purely communal parties and upheld the principle of secularism. The fourth General Elections of 1967 were termed 'the second Indian revolution'. But it is important to recognize that such a revolution had been based on the use of ballots and not force.²

Next elections for the Lok Sabha were held in 1971 and for several State Assemblies in 1972. In all these elections the Congress Party, led by Smt. Indira Gandhi, was returned to power with thumping majority. The main reasons for its success were two : (1) failure of coalition governments in many States and Congress party's election planks : stable government, and removal of poverty for which major amendments in the Constitution were to be made ; and (2) defeat of Pakistani forces in Bangladesh. But in the Lok Sabha election of early 1977 the ruling party was routed at the polls. The reasons were not far to seek. The people voted against the excesses committed by the authorities during the emergency, loss of their cherished freedoms and the erosion of democratic institution. Their verdict was in favour of the opposition which had been united and offered a viable alternative for the first time. The victory of the opposition was also a vote in favour of the restoration of democracy. All sorts of people and political observers paid tributes to the mature judgment of the electorate.

But in the Lok Sabha election of 1980, people again voted the

¹*Ibid.*, pp. 153-60.

²R. Chandidas et al, *India Votes : A Source-Book of Indian Elections*, p. 1.

discredited Congress Party to power with a thumping majority. The people's verdict was quite sound because they rejected the parties opposed to the Congress for their in-fighting and utter-failure to achieve anything. In another way, it was a verdict in favour of a stable government, which was expected to achieve results and fulfil the hopes of the people. In all the elections of 1971, 1977 and 1980, people's verdict was always politically sound and in the larger interests of the country. It also showed that the electorate supported democracy and opposed authoritarianism.

II. Electoral Mechanism/Election Commission

The Constitution of India lays down : The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President. When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission. Before each general election to the House of the People and to the Legislative Assembly of each State and before the first General Election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission.

A perusal of this article reveals that the Constitution neither prescribes any qualifications for eligibility to the post of Chief Election Commissioner nor the procedure of his appointment. Pending the enactment by the Parliament, these matters have been left to be determined by rules made by the President. In the parliamentary form of government, this tantamounts to leaving the appointment of this high functionary to the Government of the day i.e. the cabinet with the Prime Minister at its head. An appointment to this post made on ministerial advice, it is feared, may make room for the exercise of political influence. On this presumption, suggestions have been made to keep the appointment free from political bias. There is a suggestion that the Election Commission should ordinarily consist of a non-partisan and irremovable Chairman and nominees of all prominent National Parties on the basis of equality, with full powers of conducting the elections and delimiting the constituencies. At this

stage of our political development one may doubt the wisdom of entrusting the election administration to political parties.

The salary and other conditions of service of the Chief Election Commissioner and the other Election Commissioners are to be determined by the President subject to statutory regulations and the constitutional guarantee that 'the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment'. This makes the position of the Chief Election Commissioner in this regard different from the judges of the Supreme Court in two vital respects : (a) the salary and allowances of the judges of the Supreme Court have been determined by the Constitution whereas that of the Chief Election Commissioner have been left to be fixed by the President ; and (b) the salaries and allowances of the judges of the Supreme Court are authorised to be charged on the Consolidated Fund of India whereas that of the Chief Election Commissioner are not so authorised. Consequently, the salary and other conditions of service of the Chief Election Commissioner were determined by the President in each case separately. As a matter of practice the conditions of service relating to pay, pension, etc. of the Chief Election Commissioner should be on par with those of the Comptroller and Auditor-General.¹

It is unfortunate that the scheme of the election Commission, as envisaged in the Constitution, has not so far been evolved to provide the country with machinery adequate for the proper conduct of elections. The Election Commission has functioned, since its inception in 1951, as a single-man Commission, the Chief Election Commissioner being the sole authority in all matters pertaining to elections. Clause (2) of article 324 contemplates the setting up of an Election Commission consisting of the Chief Election Commissioner and "such number of other Election Commissioners, if any, as the President may from time to time fix." There is also provision, under Clause (4), for the appointment, in addition, of Regional Commissioners before each General Election to assist the Election Commission in the performance of its functions.

For the 1952 elections, two Regional Commissioners were appointed. The system of Regional Commissioners did not prove much of a success ; it was, therefore, discontinued at the time of the Second General Election. In place of Regional Commissioners, a new

¹R.P. Bhalla, '*Electoral Mechanism in India (1951-1971)*,' 1. J.P.S. Jan-March 1972, pp. 32-4.

post of Deputy Commissioner was created in 1956. In 1957, 1962 and 1967 there were only Deputy Election Commissioners to assist the Election Commission. In the mid-term elections held in 1969, there was only one Deputy Election Commissioner to assist the Chief Election Commissioner. The Joint Committee on amendments to Election Law, however, recommended the appointment of Regional Commissioners on the ground that 'there are so many matters on which it is not possible for the Election Commission at Delhi to take prompt and appropriate steps without fresh knowledge at their disposal.

Organisation of the Commission. The Constitution does not make any special provisions as regards recruitment or the conditions of service of the officers and staff employed in the secretariat of the Commission, unlike such a right being available to other organs such as the two Houses of Parliament, the Supreme Court, the Union Public Service Commission, etc. The Secretariat of the Commission consists of various sections; six sections (Election Branches) deal with all questions concerning the preparation of electoral rolls and conduct of elections to Parliament and State legislatures and matters incidental thereto. Four supporting sections assist and supplement the work of election branches; these are the Legal, Research, Statistics and Delimitation sections. In addition to these, there are four housekeeping sections and a Hindi section.

The functions of the Election Commission under the Constitution and the election laws can be performed also by a Deputy Election Commissioner or by the Secretary to the Election Commission subject to such general or special directions, if any, as may be given by the Election Commission in this behalf. Matters which involve exercise of discretion may not, however, be so delegated. All orders, notifications and other instruments on behalf of the Election Commission are authenticated under the signature of a Secretary or an Under-Secretary to the Commission. The only exception is where the Commission makes any judicial or quasi-judicial order. In such case, the Commission writes judgments or opinions as in cases of reference under article 103 and article 192 of the Constitution or in cases relating to the reduction of the period, or removal, of any disqualification under the election law, or cases where there has been any dispute between two or more groups or sections of a recognized political party. In every such case the judgment or opinion is necessarily recorded and signed by the Chief Election Commissioner.

Machinery at the State Level. A permanent nucleus organisation

headed by the Chief Electoral Officer exists in every State and Union Territory for this purpose. The Chief Electoral Officer is ordinarily a Senior Secretary to the Government. In a few cases, the Chief Electoral Officers are the additional Secretaries, for example, in Andhra Pradesh, formerly even a Chief Secretary was the Chief Electoral Officer. Till 1956, the Chief Electoral Officer, the king-pin in the State electoral machinery, had no statutory status. The statute of 1956 declared the Chief Electoral Officer as 'such officer of the Government as the Election Commission may, in consultation with the (State) Government, designate or nominate in this behalf'. The Commission nominates the Chief Electoral Officer from the panel of names submitted to it by the State Government. In fact, the recommendation of the State Government is usually accepted. The organisation and administrative structure of the office of the Chief Electoral Officer varies from state to state depending on the size of the state and volume of work involved. It constitutes either a separate department by itself or forms part of the state Government secretariat.

Machinery at District Level. The organisation of the electoral machinery at the district level in the first four general elections varied from State to State. In some States the election work in the district was entrusted to an officer, namely District Election Officer; in others it was carried on either by an executive officer in addition to his normal administrative duties or by normal administrative machinery. The election machinery at the district level as the Election Commission pointed out was often haphazard and its performance very often below the required standard. The Commission reiterated its earlier view that an independent office of District Election Officer should be created and this officer should be made statutorily responsible for coordinating and supervising all the work connected with the preparation and revision of electoral rolls and conduct of elections within the district'. This recommendation was implemented in 1966 through an amendment to the Representation of the People Act, 1950.

Functions of the Election Commission. The task of the Commission is immense and the complexities of the duties it is called upon to discharge are obviously heavy. The size of the electorate steadily increased from 173.2 million in 1952; and it was expected that by 1972 the number of voters might reach or even go beyond 285 million. In addition to the powers exercised in connection with the preparation of electoral rolls and the conduct of elections, the commission also performs certain quasi-judicial functions; for instance, under article 103 of the Constitution, should any question arise as to whether an

M. P. has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question is to be submitted for the decision of the President, who will act according to the opinion of the Election Commission. A similar provision exists in regard to the members of State Legislatures, the power being vested in the Governors under article 192 to refer such question to the Election Commission.

Where in connection with the tendering of any opinion to the President or to the Governor, the Election Commission considers it necessary or proper to make an inquiry, and the Commission is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decisive opinion on the matter which is being inquired into, the Commission has, for the purposes of such inquiry, the powers of a civil court in respect of the following matters : (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document or other material object producible as evidence; (c) receiving evidence on affidavits; (d) requisitioning any public record or a copy thereof from any court or office; and (e) issuing commissions for the examination of witnesses or documents. The Commission also has the power to require any person to furnish any information on such matters as in the opinion of the commission may be useful for, or relevant to, the subject-matter of the inquiry.

Allotment of Symbols. The Congress led by K. Brahmanand Reddy was allowed to use the "calf and cow" symbol in the Assembly elections in five States and a Union Territory, under a ruling given by the Chief Commissioner. The application of the party led by Mrs. Gandhi was kept pending until it produced further material that could satisfy him about its claim. On account of a large percentage of illiterate voters, party symbols for elections have great importance. Hence, the allotment of symbols on rational criteria and the settlement of disputes arising between rival claimants of a divided party are significant functions of the Election Commission.

Enforcement of Election Rules. For example, a disconcerting feature of the First General Elections was that the election accounts were not kept properly by most candidates. Of the 27,915 candidates and 3,187 election agents as many as 7,724 candidates and 855 election agents were disqualified for contravention of Section 7 (c) and Section 143 of Representation of the People Act, 1951. Candidates were disqualified for such minor technical lapses as failure to use non-

udicial stamps on the declaration accompanying the returns, or the improper attestation of the declaration, or the incorrect classification of various items of expenditure or the lack of supporting vouchers with them. However, 31.3 of them made representations to the Commission for removal of their disqualifications. Recognizing the complexity of the law on the subject, the inexperience of candidates in the matter and the technical nature of offences committed, the Election Commission took a lenient view. The Commission accepted their pleas wherever there were adequate explanations and rectifications.¹

Criticism. The framers of the Indian Constitution have given us a fool-proof electoral mechanism; which has largely succeeded in ensuring free and fair elections. 'This electoral machinery may be characterised as a bastion of democracy in India. The entire electoral administration of the Union as well as the States has been vested in the Election Commission, which alone has the authority to issue directions to the District Election Officers, the Returning Officers and all others engaged in the preparation and revision of electoral rolls and the conduct of elections. The Chief Election Commissioner is an officer of the Constitution with an independent status and security of tenure like that of the judges of the Supreme Court and the Comptroller and Auditor-General of India.² A suggestion that deserves consideration is that the appointment of the Chief Election Commissioner should be made in consultation with the Chief Justice of India and the Leader of the Opposition in the Lok Sabha on the analogy of the proposed Lokpal and Lokayuktas.'

To enable the election Commission to meet heavy responsibility, it should be expanded into a permanent three or five-member Commission with the Chief Election Commissioner as Chairman. Such a large permanent Commission "will avoid the possibility of arbitrary action by a single individual; the responsibility relating to elections will be more effectively discharged; and in exercise of its quasi-judicial functions a broad-based Commission is likely to reach generally acceptable decisions and command respect." Electoral machinery for a vast electorate spread over a vast country should not be concentrated either at New Delhi or in the capitals of the States. To ensure fair and free elections, "it is essential that the election work should be spread and ramified throughout the length and breadth of the country and that

¹R. P. Bhalla, *Elections in India*, p. 309.

²R. P. Bhalla, *Electoral Mechanism*, pp. 55-6

³Subhash C. Kashyap (ed.), *Elections*, p. 33.

even in the remotest villages this work should be done so as to inspire confidence of the people.”

The Election Commission within a short span of thirty-two years of its existence acquired for itself a unique position in the constitutional structure of the governance of this country. ‘The feeling appears to have grown in this country that in all matters pertaining to elections the only authority to which one can look for help, guidance and redressal of grievances, is the Election Commission. It has given the people confidence that electoral process would bring a government of their choice. Major changes of power have been accepted peacefully because its integrity has never been questioned. As a matter of fact this is one of the institutions that has earned India considerable credit at home and abroad. The entire process of election in the last five General Elections, commencing with the delimitation of constituencies and going up to electoral adjudication, bears an imprint of the efficiency, impartiality and independence of the Election Commission. It has been constantly endeavouring to simplify electoral procedure, to reduce the time lag between various steps and to create a general sense of confidence in the electoral system and its operation.’¹

III. Electoral Process

Registration of Voters and Revision of Lists. Considering the vastness of the country, the size of its population, prevailing illiteracy, inadequacy of the means of communication and indifference of political parties in the matter, the enrolment of voters is a difficult task. Moreover, the revision of rolls is a time-consuming process which impedes the holding of elections quickly. Some procedure should, therefore, be evolved under which the electoral rolls are subjected to constant revision so that they are always kept up-to-date and the Commission may hold state or country-wide elections within a short time. This objective can easily be attained if political parties co-operate in the venture.

Fixing the Election Date. The date of election is fixed by the Election Commission in consultation with the Union or State Government as the case may be. Its importance may be realised from a recent case. The repoll in the Garhwal Lok Sabha constituency fixed for 22 November 1981 was put off by the Chief Election Commissioner (on 14 November), who said that the State Government had

¹R.P. Bhalla, *Elections in India*, p. 16.

pleaded that in the prevailing law and order situation in the State it could not spare adequate police force for the orderly conduct of the by-election. On the following day seven political groups handed to the President a joint memorandum conveying their protest against the indefinite postponement of the repoll. The memorandum characterised the postponement as an attempt at subversion of the constitution.

Presidential Notification. The President issued on 10 February 1977 a notification calling upon the 542 parliamentary constituencies to elect their representatives to the Lok Sabha. The notification set in motion the process of holding the March general election to the Lok Sabha which had been dissolved on 18 January. The Presidential notification said : "Whereas the House of the People was dissolved by the President under subclause (B) of clause (2) of article 85 of the Constitution on 18 January 1977 : And whereas a general election has to be held for the purpose of constituting a new house ; now, therefore, in pursuance of sub-section (2) of Section 14 of the Representation of the People Act, 1951, the President is hereby pleased to call upon all the parliamentary constituencies to elect members in accordance with the provisions of the said Act and of the rules and orders made thereunder." The Election Commission had already announced the time-table for the four day poll for the Lok Sabha to be held on 16, 18, 19 and 20 March. The Commission had fixed 17 February as the last date for filing nominations, 18 February for scrutiny of nominations and 21 February as the last date for withdrawal of candidates.

The Nominating Process. The electoral process is formally set in motion by the Presidential announcement calling upon electors in all parliamentary constituencies to elect their representatives to the Lok Sabha. Similarly, the Governors of the States issue notifications calling upon electors to elect their representatives for the Legislative Assemblies. At the same time the Election Commission issues 'notifications specifying the time-table for nominations, scrutiny, withdrawals, and polling.' Candidates must meet the requirements laid down in the Constitution and in the Representation of the People Acts of 1950 and 1951. They are usually selected by the recognized political parties, and they may also contest as independents. Shortly after the dead-line for the filing of nomination papers has passed, the papers are scrutinized by the Returning Officers, who reject those which are invalid and draw up a list of the validly nominated candidates in each constituency, arranged alphabetically. The list of candidates is

finalised only after the last date for withdrawals.

The Representation of the People (Second Amendment) Act 1956, largely implemented the wishes of the Commission expressed in its report on the First General Elections. The amended law regularised the election schedule and reduced the time lag between various steps. Nominations are now made on or before the 10th day instead of the 14th after the date of publication of the first notification. The date of scrutiny of nomination papers was shifted from the 7th to the 3rd day after the close of nominations, and the date of poll can be as early as, but not earlier than, the 20th day after the last date for withdrawal of candidature. The provision in respect of endorsement of a nomination paper by a 'seconder' was omitted and the rectification of any clerical error in the nomination paper was made mandatory for Returning Officer. A new provision enabling the contesting candidate to retire from the contest by notifying his intention to that effect to the Returning Officer at least ten days before the commencement of the poll was inserted. The appointment of election agents was made optional as well as independent of the nomination.

Grounds for Rejecting a Nomination Paper. The Election Commission set out in November 1979 the conditions which would justify a returning officer to reject the nomination paper of any candidate. According to an official release the grounds for rejection of nomination papers are : (1) If a candidate was clearly not qualified to be a member of the House of the People or of a state legislative assembly. (2) If he was clearly disqualified in law to be such a member. (3) If he had not taken the oath or affirmation as required by the Constitution. (4) If his nomination paper had not been delivered in time. (5) If his nomination paper had been delivered to the returning officer or to an authorised assistant returning officer by a person other than himself or his proposer. (6) If his nomination paper had not been delivered at the place specified in the public notice issued by the returning officer. (7) If his nomination paper had been delivered to a person other than the returning officer or any of his authorised assistant returning officers. (8) If his nomination paper was not substantially in the prescribed form. (9) If his nomination paper had not been signed either by him or by his proposer or by both in the places meant for such signatures in the nomination paper. (10) If the proper deposit had not been made by him in accordance with the law already explained. (11) If his signature or the signature of his proposer on the nomination paper was not genuine. (12) If he does not belong to scheduled caste and he files nomination paper to

contest a seat reserved for the scheduled castes. (13) If the proposer was not an elector of the constituency or was ineligible to be a proposer.

Recognition of Parties. The Election Commission determines which political parties will be recognised, on both national and State levels, and what symbols will be assigned to each party. Besides the Congress there have always been several other parties that have claimed to be national parties and that have been recognized as such by the Election Commission. At the State level the number of parties has been even greater, and in some States the Congress has consistently been in a minority position as far as popular votes have been concerned. No fewer than 77 so-called political parties took part in the first general election in 1951-2. Of these 14 were recognized by the Election Commission as national parties, 51 were recognized as state parties. After the first general elections the Election Commission established a rule that has been in effect ever since, namely that only those parties which polled at least three per cent of the total valid vote in the previous general election would be recognized as national parties. This reduced the number of recognized national parties to four for the second general elections, to four for the third general elections, to five for the fourth general elections, and to eight for the fifth general elections. On 31 April 1968 the Election Commission issued detailed order for the recognition of political parties. The Election Symbols (Reservation and Allotment) Order, 1968, regarding reservation and allotment of symbols, sought to systematise some of the existing practices. As per the Symbols Order, recognized political parties are divided into two categories. A party recognised in four or more states is known as a National Party and a party recognised in less than four states is treated as a State Party.

A Political party in order to obtain recognition in a State is required to fulfil either the conditions specified in (A) or the conditions specified in (B) below: (A) That such party—(a) has been engaged in political activity for a continuous period of five years; and (b) has, at the general election in that State to the Lok Sabha or, as the case may be, the Legislative Assembly, for the time being in existence and functioning, returned—either (i) at least one member to the House of the People for every twenty-five members of that Assembly or any fraction of that number; (B) that the total number of valid votes polled by all the contesting candidates set up by such party at the general election in the State to the Lok Sabha or, as the case may be, to the Legislative Assembly, for the time being in existence and functioning not less than four percent of the total number of valid votes polled by

all the contesting candidates at such general election in the State (including the valid votes of those contesting candidates who have forfeited their deposits).

In a press note issued on 12 April 1982 after a review of the position of recognised national and state parties, the Commission listed the recognised national parties as: the Bhartiya Janta Party, the Communist Party of India, the CPI (Marxist), the Indian National Congress (I), the Janata Party and the Lok Dal. The Indian Congress (S) has been accorded the national party status 'until further orders', the announcement said. While 25 state parties retain their status as such, five have lost this recognition. They are the Kerala Congress (Pillai group), the Hill State People's Democratic Party (Meghalaya), the National Convention of Nagaland, the Sikkim Scheduled Caste League and the Vishal Haryana Party. In the category of registered parties, 12 continue to enjoy this status while 12 others have lost their position.

Selection of Candidates. The Selection process has a considerable bearing on the quality of leaders to be chosen for political parties as well as of individuals, on the nature of the electoral process and on the character of leadership and the orientation of the political system. It is a difficult and time-consuming process which often becomes 'the focal point of group conflict,' and may create bitterness and divisions within parties.

Election Campaign. 'A political campaign is always an interesting happening in the political life of a nation. It attracts a great deal of attention inside a country, and often outside as well. It brings to the surface many aspects of the political process; it provides insights into the inner workings of the political system and the basic motivating forces in politics and society. Generally speaking, it involves larger numbers of people in the political process than any other event, even though the participation of most people may be limited largely to a spectator role culminating in the not very active act of voting.'

Throughout a campaign candidates and their supporters constantly talk about the issues, which are sometimes defined in very general and sometimes in quite specific terms. 'In India, with the possible exception of the fourth general election in 1967 the voters have responded more to national than to regional, or local, or international issues. In the Nehru and Indira Gandhi eras, furthermore, they seem to have been influenced more by national than by local considerations. There are of course many exceptions to this, but on the whole it would seem to be valid.' Opposition parties and candida-

tes, of course, have taken a different course. Sometimes they have concentrated on local issues and have depended on the appeals of particularly popular candidates; but they have also tried to discredit the national leadership and policies of the ruling Congress Party.

Election Manifestoes and Slogans. One main channel through which the issues are presumably identified and a party's position on them explained is the election manifesto. Every major party and sometimes even independent candidates have issued election manifestoes in the course of every general election. Theoretically they are very important documents, for they put the parties and candidates on record on various issues and they provide a check list which voters can use in comparing the position of different parties and candidates. After the election they serve as an instrument of accountability in checking on the performance of the winning parties and candidates, as compared with their campaign pledges.

Campaign Techniques. Many ingenious campaign techniques have been used in Indian elections. These techniques have been geared to the nature of the Indian electorate, including their mass illiteracy and social attitudes and values, and to the problems of communication in a vast nation where channels of communication are still quite limited. On the whole, emphasis was given to such techniques as meetings, processions, banners, flags, and other visible and rather spectacular demonstrations rather than to the written word, although numerous pamphlets and leaflets were distributed and posters and slogans on walls and fences were used everywhere.¹

The question was often raised whether broadcasting facilities on the All-India Radio should be made available to the parties for their election propaganda as is done in some Western Countries. On account of a multitude of parties, and the strength and standing of some of them being difficult to ascertain, the matter was controversial. The Election Commission, prior to the general elections held in 1952, had advised the Government that it would be almost an impossibility to apportion broadcasting facilities amongst the numerous 'recognised' parties; the Government accepted the Commission's advice and no broadcasting facilities were extended to the parties for their election campaign.

In October 1979 a scheme, prepared by the Election Commission on the use of radio and TV facilities in the coming mid-term Lok Sabha poll in January 1980 was accepted by representatives of politi-

¹Norman D. Palmer, *op. cit.*, pp. 115-31.

cal parties at a meeting convened by the Chief Election Commissioner. Such facilities had been made available by the Janta Government in the State Assembly elections in 1977. The guidelines issued by the Election Commission required the political parties to avoid criticism of friendly countries and attacks on religious communities. They were also urged to refrain from any comments which would be obscene or defamatory, lead to incitement of violence or amount to contempt of court.

The recognised national and State parties were given facilities for broadcasting from the principal Akashvani station and Doordarshan Kendra in every State in which the Lok Sabha election was to be held. These broadcasts were relayed from all other Akashvani stations in the State. In addition, national parties were given facilities to put out central broadcasts from AIR in Delhi and Delhi Doordarshan Kendra. These were relayed from all AIR stations and Doordarshan for 15 minutes. The order in which the political parties were to broadcast was determined by draw of lots. These party broadcasts were in addition to panel discussions or other programmes on elections put out by AIR and Doordarshan.

IV. Election Disputes

The machinery for resolving electoral disputes was inadequate and its modus operandi was tardy, cumbersome and costly. The time involved in the disposal of a petition, according to Commission, ranged from two months and twenty-six days, pending for two years eight months and ten days approximately. Seventeen petitions took more than three years for their final disposal. The tribunals disposed of 45.87 per cent of the complaints within two years, 3.63 per cent within three years and 1.98 per cent in four years. 'The machinery for the settlement of election disputes was, doubtless, not as speedy as desirable; but the blame for the accumulation of arrears does not rest solely with the Commission. It was due to the defective mechanism provided for the purpose. It was mainly the outcome of stay proceedings, ranging in some cases from a few months to one year by the High Court on interlocutory application filed by one or the other party to the dispute or due to special leave granted by the Supreme Court.

'The adjudication of electoral disputes, arising after elections, has neither been cheap nor expeditious. Delay, as the maxim goes, defeats equity. But the statutory machinery provided by law for this purpose itself was defective. The working of the three-member tribunal, origi-

nally envisaged for the disposal of election petitions, was found cumbersome and dilatory and was, therefore, substituted by the single-member tribunal presided over by a district judge or retired High Court Judge. Though this arrangement was better, yet the tribunals often got hamstrung because of stay orders from High Court under article 227 or from the Supreme Court under article 136 of the Constitution.¹ The nineteenth amendment to the Constitution which deleted a clause from article 324 resulted in abolition of Election Tribunals with effect from 22 December 1966. Hence, at present there are no Elections Tribunals. All petitions challenging the elections are now required to be submitted to the High Courts. This amendment resulted in speedy disposal of election cases.

Election Petitions. No election can be called in question except by an election petition presented in accordance with the procedure prescribed by law. The court having jurisdiction to try an election petition is the High Court. Such jurisdiction is exercised ordinarily by a single judge and the Chief Justice, from time to time, assigns one or more judges for the purpose. An election petition may be presented on one or more grounds specified in sub-section (1) of sections 100 and 101 to the High Court by any candidate at such election or any elector within 45 days from the date of election of the returned candidate. An election petition should contain (a) a concise statement of the material facts on which the petitioner relies; and (b) full particulars of any corrupt practice that the petitioner alleges. A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been elected. Subject to the provisions of the Act and of any rules made thereunder, every election petition is tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits. The provisions of the Indian Evidence Act, 1872 subject to the provisions of this Act, apply in all respects to the trial of an election petition. No witness or other person is required to state for whom he has voted at an election. No witness can be excused from answering any question as to any matter relevant to the issue in the trial.

Appeals to Supreme Court. Notwithstanding anything contained in any other law for the time being in force, an appeal lies to the Supreme Court on any question (whether of law or fact) from every

¹R. P. Bhatla, *Elections in India*, p. 359.

order made by a High Court under section 98 or section 99. Every appeal under this Chapter has to be preferred within a period of thirty days from the date of the order of the High Court under section 98 or section 99. The Supreme Court, while dismissing an appeal of Thammanna on 24 July 1980 ruled that a person who was a formal party to an election petition must fulfil three conditions before he could appeal to the Supreme Court against a decision of the High Court in that petition.

Stay of operation of the Order of High Court. An application may be made to the High Court for stay of operation of an order made by the High Court under section 98 or section 99 before the expiration of the time allowed for appealing therefrom and the High Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order; but no application for stay shall be made to the High Court after an appeal has been preferred to the Supreme Court.

Prime Minister's Poll Case. Justice J.M.L. Sinha of the Allahabad High Court, on 12 June 1975, set aside Prime Minister Smt. Indira Gandhi's election to the Lok Sabha. She was held guilty of having committed corrupt practice, under section 123 (7) of the Representation of the People Act by having obtained the assistance of the gazetted officers of the State Government of UP and of Yash Pal Kapoor, a gazetted officer in the Government of India holding the post of officer on special duty in the Prime Minister's secretariat, for the furtherance of her election prospects. She was accordingly disqualified for a period of 6 years as provided in section 8 (A) of the Representation of the People Act. The order was passed on Raj Narain's petition challenging the validity of the Prime Minister's election. The petitioner was allowed cost of the election petition from the respondent. The court, however, rejected Raj Narain's writ petition challenging the validity of the Representation of People Act (Amendment Ordinance 1974) and also exonerated Smt. Gandhi of other charges like incurring expenditure in excess of the ceiling, use of IAF planes and personnel, use of vehicles to carry voters and distribution of quilts, blankets etc., among the people to induce them to vote for her. The court also held that the symbol of 'Cow and Calf' did not amount to be a religious symbol within the meaning of the Act. The court granted leave to appeal on a petition moved by Smt. Gandhi's counsel.

Smt. Gandhi's petition for an absolute and unconditional stay of the Allahabad High Court judgment was taken up by Justice W.R.

Krishna Iyer, Vacation Judge of the Supreme Court, on 23 June and the judgment was delivered on 24 June. The judgment provided that Smt. Indira Gandhi would remain a member of Lok Sabha for all purposes except that she would neither take part in the proceedings of the House nor vote nor draw any remuneration in her capacity as a member of the Lok Sabha. She would, however, be entitled to sign the register kept in the House for the purpose and attend the sessions of the Lok Sabha. Justice Iyer held that her rights as Prime Minister or Minister so long as she filled that office, to speak in and otherwise to take part in the proceedings of either House of Parliament or a joint sitting of the two Houses (without the right to vote) and to discharge other functions such as are laid down in articles 74, 75, 78, 88 etc., or under any other law and to draw salary as Prime Minister, shall not be affected on account of the conditions contained in the stay order. The judgment also provided that if new events like the convening of Parliament took place or fresh consideration, cropped up, the petitioner-appellant or the respondent may move a Division Bench of the Court for variation of the order.

The Supreme Court on 7 November unanimously upheld Prime Minister Indira Gandhi's election to the Lok Sabha in 1971, nullifying the Allahabad High Court Judgment. The verdict was given by a five-judge Constitution Bench of the Supreme Court, presided over by the Chief Justice. The Judgment endorsed the 1974-75 amendments to the election laws. The Bench also unanimously rejected the cross appeal of Raj Narain and held Sm. Gandhi not guilty of any corrupt practices. The Court however, struck down clause 4 of article 329-A of the Constitution, inserted by the 39th Amendment. In 1976, the Parliament passed a Constitution Amending Act, which empowered Parliament to set up a new forum for resolving disputes relating to election of the President, the Vice President, the Prime Minister and the Speaker. The Janata Government got the provision repealed by a later amendment.

V. Electoral Offences and Corrupt Practices

ELECTORAL OFFENCES

Promoting enmity between classes in connection with election.
Any person who in connection with an election promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Prohibition of public meetings on the day preceding the election day and on the election day. No person can convene, hold or attend any public meeting in any polling area during the period of 48 hours ending with the hours fixed for the conclusion of the poll for any election in that polling area. Any person who contravenes the provision is punishable with fine, which may extend to two hundred and fifty rupees.

Disturbances at election meeting. Any person who at a public meeting acts or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, is punishable with fine, which may extend to 250 rupees. This provision applies to any public meeting of a political character held in any constituency between the date of the issue of a notification calling upon the constituency to elect a member or members and the date on which such election is held.

Restrictions on the printing of pamphlets, posters etc. No person can print or publish or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and address of the printer and the publisher thereof. No person can print or publish or cause to be printed any election pamphlet or poster—(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and (b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document. Any person who contravenes any of these provisions is punishable with imprisonment for a term, which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Other Offences. Under the law, punishments have been provided for these offences as well; (i) government servants acting as election agent, polling agent or counting agent; (ii) removal of ballot papers from polling station; (iii) fraudulently defacing or destroying any nomination paper; (iv) canvassing in or near polling station; (v) disorderly conduct in or near polling stations, etc.

CORRUPT PRACTICES

Some of the common practices, which are illegal and punishable under the law, are being briefly discussed as follows:

Bribery. Any gift, offer or promise by a candidate or his agent or by any person with the consent of a candidate or his election agent

of any gratification, to any person, with the object directly or indirectly of (a) inducing a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election; or (b) an elector to vote or refrain from voting at an election; or (c) as a reward to a person for having so stood, or not stood, or for having withdrawn or not having withdrawn; or (d) an elector for having voted or refrained from voting, etc. fall within this offence.

Undue Influence. It includes only direct or indirect interference or attempt to interfere on the part of the candidate or his agent; with, the free exercise of an electoral right. This also includes (a) threatening any candidate or elector with injury and (b) inducing or attempting to induce a candidate or an elector to believe that he or any person in whom he is interested, will become or will be rendered an object of divine displeasure or special censure.

Appeal to religion, race, caste, community or language. The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate, is a corrupt practice.

Others. (i) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election. The hiring or procuring, whether on payment or otherwise, of any vehicle by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station : Provided that the hiring of a vehicle by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll is not deemed to be a corrupt practice under this clause if the vehicle so hired is a vehicle not propelled by mechanical power.

In its report on the Fourth General Elections, the Election Com-

missionre commended that "the number of motor vehicles that may be used for electioneering purposes should be limited to three in an Assembly constituency, and to six in a Parliamentary constituency." The suggestion was not made in the context of the above corrupt practice but with a view to reducing over-all expenditure. It has been suggested that all vehicles on the polling day, except those connected with official election arrangements, police, hospitals, etc., should be completely prohibited. Passes should be issued to such authorised vehicles on the lines of curfew passes.

Problem of Impersonation. Another evil practice, prevalent mainly among urban populations, is impersonation of electors. Impersonation is an offence under the Indian Penal Code, punishable with one year imprisonment, or with fine, or with both. The Election Rules simply provide that where a suspected impersonator attempts to cast a vote in the name of some other voter, any polling agent may challenge his identity by first depositing Rs. 2 in cash with the presiding officer. The officer then holds a summary enquiry and then decides the question. This provision is certainly useful, but it is not effective enough.

Election Expenditure. There has been a sharp rise in a candidate's election expenses, which has been the cause of considerable concern. It is generally admitted that the statutory ceilings on election expenses are seldom observed in practice and the actual expenditure incurred by a candidate does not bear any relation to the maximum limits laid down. More or less open admissions have been made of substantial sums of money, being spent over the prescribed limits by candidates. There have also been allegations of foreign money being available in an election campaign. The law in this regard is quite inadequate to counter the ingenuity of a candidate in circumventing its provisions successfully and with impunity. On this subject in its report on the Fourth General Elections, the Election Commission observed : "The existing law relating to accounts of election expenses suffers from two main defects. The first is that the period of accounting is limited to the interval between the date of the notification calling the election and the date of the declaration of the result of the election." For the other, refer to the monetary factor in elections in the following section. The incurring or authorization of any expenditure on electioneering for the furtherance of the prospects of election of a candidate without the authorisation of the latter; the issue of any circular or placard or poster having reference to election without the name and address of the publisher; and the hiring of, or

letting, any premises where liquor is sold to the public, were declared to be illegal practices.

Notable Amendments. The Representation of People (Amendment) Act, 1956, simplified the law relating to corrupt practices by eliminating the distinction between the three sets of corrupt practices, the major corrupt practices, the minor corrupt practices and the illegal practices. The hitherto existing distinction only created confusion. The Representation of the People (Amendment) Act, 1961 enlarged the scope of corrupt practices by including a reference to "language" and by omitting the word "systematic". The promotion of feelings of enmity and hatred between different classes of citizens on the ground of religion, race, caste, community or language was made a corrupt practice and an electoral offence. The printing or publishing of any election poster or pamphlet was also made an electoral offence. These were salutary amendments, but their enforcement during the Third General Elections was slack and ineffective.

VI. Electoral Reforms

A non-official committee consisting of five prominent political leaders was appointed by the Sarvodaya leader, Jai Prakash Narain more than a decade before. The report pin-pointed the reckless use of money in elections since 1967. It is believed that in the 1971 election the Congress Party alone spent over three times as much as in 1967. These findings prompted the Committee to suggest effective measures to curtail election expenses starting with the recent amendment to the Representation of People Act under which expenditures incurred by parties were disregarded in judging whether a candidate kept within the ceiling prescribed by law. All amounts spent for the furtherance of a candidate's prospects, directly or indirectly, should be treated as election expenses for purposes of the ceiling. But the ceiling itself should be doubled. The Committee did not favour providing money from public revenues to candidates to fight elections. Rejecting the idea as 'impracticable' under prevailing conditions, it suggested giving the candidates some facilities at public expense—as, for example, mailing of one communication to each voter free of charge.

It also rejected the proposal for lifting the ban on company donations to political parties. The committee wanted the Government in power at the time when an election was called to function as a caretaker Government. It should, in particular, refrain from initiating or announcing new policies, promise or start new projects or

grant allowances or loans or salary increases. Likewise the Committee wanted a supervisory body consisting of the nominees of recognised parties together with non-party persons of integrity to oversee the working of radio and TV at election time. But even this would be of limited value unless broadcasting services were placed under the control of an autonomous, statutory corporation. This was of primary importance.

Developments in the Garhwal parliamentary byelection pointed to the urgency for electoral reforms for plugging the obvious loopholes in current practices, says a study by a civil rights organisation. It cautions that unless the Election Commission and Parliament take appropriate measures before the next general elections the electoral system which has by and large functioned fairly and impartially is in danger of losing its credibility among the people.' The organisation, Citizens For Democracy, had entrusted to a three-member committee to establish the nature and extent of malpractices in the by-election and the persons responsible for them. On the role of money power, be it of the candidate or the party, the committee found that the concept of a ceiling 'has been reduced to nonsense by the freedom given to parties and others to spend any amount without question.' It wanted the law to be amended to impose a reasonable limit if the concept of a ceiling is to have a meaning at all.¹ We would now discuss some of the steps taken, proposed to be taken or which should be taken with a view to preventing certain corrupt practices or reforming the electoral system as follows :

Code of Conduct for Political Parties. Political parties in India accepted the need of such restraints as the code of conduct dealing with such aspects of electioneering as meetings, processions, speeches, slogans, etc. A party must obtain prior permission of the administration for holding a public meeting or for using the loudspeaker or any other facility in connection with the meeting. A party organising a procession should in advance determine the time and place of starting the procession, the route thereof and the time and name of its disbanding, of course, all this should be done with the permission of the authorities concerned.

Pictorial representation should be sober and moderate and should illustrate the objects of party instead of highlighting the misdeeds of rival parties. Encouraged by the favourable response of political parties on the eve of the Third General Elections, the

¹Times of India, 26 Oct. 1981.

Election Commission circulated a code to all the political parties in India and to the State Governments, exhorting the latter to secure acceptance of the code by all parties contesting general elections in their States. The Commission observed : 'The code of conduct was generally followed by the parties and the candidates and consequently campaign was conducted in a peaceful and orderly manner almost everywhere, But neither the existing law nor a code of conduct is enough to ensure free and fair elections.'

In November 1979, the Election Commission formulated a 23-point code of conduct to ensure peaceful and orderly election campaign for the mid-term Lok Sabha poll in January 1980. Its main points were : (i) No party or candidate should indulge in any activity which may aggravate the existing differences or create mutual hatred or cause tension; (ii) candidates and parties should confine their criticism to policies and programmes; (iii) they should not appeal to caste or communal feelings for securing votes; (iv) processions should not be taken out by one party along places where meetings are being held by another party; (v) complaints against policemen, if any, should be brought to the notice of their authorities, instead of voicing them before the public, (vi) all parties and candidates should cooperate with the officers on the election day; (vii) all parties and candidates should scrupulously avoid corrupt practices; (viii) identity slips supplied by them to the voters should be on plain white paper; (ix) liquor should not be sold, given or distributed on the polling day; (x) they should inform the police authorities of the venue and time of any proposed meeting; (xi) the organisers should seek the assistance of the police on duty for dealing with persons who disturb the meeting; (xii) all political parties should endeavour to respect the right of every individual for peaceful and undisturbed home life; (xiii) no political party should permit its followers to make use of any individual's land, building or compounds, etc.

Case against Compulsory Voting in India. The greatest factor accounting for the low poll in India is the appalling illiteracy prevailing in the country. In the country as a whole, their number is more than 350 million. It is difficult to arouse such a vast mass of people to the obligation and responsibilities of a free society—a knowledge which literacy alone can impart to a great extent. Another factor is the economic backwardness of the people, difficulties of communication, *purdah* and chores of every-day life necessary for survival to the millions in the country. Voting is a process of free society. To a people suffering under economic bondage, it has hardly any serious meaning.

Even if voting is made compulsory, the desired result will not be achieved.

Lowering the Voting Age to 18. If India needs to be pulled out from the nauseating ditch of superstitions, casteism and apathy, it needs mobilisation of youth power. Hence, drastic overhauling of existing laws is necessary in order to encourage youth's participation. For long, the question of lowering the age of voters from 21 years to 18 years has been hotly debated, though the solution is yet to be found. If this reform is accepted, it will instil confidence in the youths and will help in making them responsible citizens. The political renaissance among youths has remained confined to the four walls of universities or colleges. Unable to gain credibility in the eyes of their elders, youths have utilised college unions as forums for airing their grievances, for fighting against outmoded values and for demanding change. Non-utilization of youth's power in country's reconstruction has caused this force to go astray and fall into wrong hands. The lowering of the voting age to 18 would give the younger generation a sense of participation in the democratic process, the Committee noted.' However, one great objection against this proposal is that of practical difficulties to be faced in the enrolment of another large section as voters and also in organising the conduct of elections.

Introduction of Proportional Representation (PR). It is suggested by some that our electoral system should be completely changed so as to bring about greater correspondence between the votes cast for a party and the seats secured by it. In other words, they advocate a system of proportional representation as obtains in many countries of continental Europe. Under the prevailing system, the majority party secures a grossly exaggerated share of seats while the smaller parties tend to be eliminated. Thus, while minority opinion finds little or no reflection in the legislature the supposed-to-be majority opinion is very often itself a minority opinion....Nothing else except the system can explain how in election after election in India the Congress has managed to secure an overwhelming majority of seats despite its minority hold on the electorate."¹ In 1952, the Congress poll percentage was 44.99; in 1957 it was 47.71; in 1962 it was 41.73; and in 1967, 40.82. Nevertheless, it succeeded cornering some 70 per cent seats in the first three elections and a clear majority even in the fourth. Thus there has been little relationship between the electoral performance of the ruling party and its strength in Parliament. On the other hand, other

¹Subhash C. Kashyap (ed.). *op cit.*, p 3.

political parties showed poor performance in terms of percentage of votes polled in their favour, as would be clear from the following table.¹

Lok Sabha elections and Party Performance

Party	Year	Percentage of votes polled	Percentage of seats secured
Communist	1952	3.3	3.3
	1957	8.9	5.5
	1962	0.9	5.8
	1967	9.4	8.1
Jana Sangh	1952	3.1	0.6
	1957	5.9	0.8
	1962	6.6	2.8
	1967	9.4	6.7
PSP	1952	5.8	1.8
	1957	10.4	3.8
	1962	6.8	2.4
	1967	3.1	2.5
Swatantra	1962	7.9	3.6
	1967	8.7	8.4
SSP	1962	2.7	1.2
	1967	4.9	4.4

But the perils to which the system of proportional representation exposes democratic government outweigh any possible advantage. Its main undesirable tendencies are two; first, the splintering of political parties and secondly, the increase in undesirable centralization of control of the political parties. The list system is more dangerous in these respects than the single transferable vote system. The system tends to split up big parties and to encourage the formation and independence of separate groups. Before 1918 there were seven big parties in Weimar Germany; in 1932 over a score were electorally alive. The tendency was toward a further disintegration, for which some other factors were also responsible; but this was, undoubtedly, the most important.

Where only two parties are in the field, each knows it must work

¹See Fourth General Election: An Analysis, Published by Ministry of Information and Broadcasting, Govt. of India, 1958.

for a majority in the constituency as well as in the country. Each party must court significant minorities, and these necessities make for a middle-of-the-road platform and for candidates who have a general appeal. Thus minorities are not wholly ignored and unrepresented, because party platforms of the major parties take their less extreme demands into account. At the same time, minority groups of opinions, knowing that the chances of electing their own representatives are slim, tend to swing to one or the other of the two parties, hoping for some consideration in return for their support. This is the party system working at its best. It compels every one to concentrate on what he shares in common with others, to search for the unifying ideas and policies.

But as a consequence of PR, parties are not only splintered, but they also become dogmatic sects and rabid factions promoting their own narrow creeds. All parties become radical, in one sense or another and less disposed to the inevitable compromise of a democratic system. 'While few of the economic groups set up their own parties, they exact concessions from the parties much more easily than under a two-party system. A strong economic interest may win one of the small parties to its view on economic matters because the small party, unlike the great parties of the two-party system does not have to consider the reaction of opposing interest groups. It will never have the unquestioned power to implement the bargain. In this way the economic and other groups interests pick their champions and expect them to stand firm on the floor of the legislature. This increases the intransigence of parties.'¹

An inevitable evil consequence of a multiple-party system is weak government. In countries with a parliamentary system the resulting governments are coalitions, not because they have been returned by the electorate. The several parties forming the coalition, backed by opposing interests of various kinds, often find that the only thing they can agree upon is to do nothing important. Their policies are not clear-cut as in the case of governments in a two-party system. At best, such governments are short-lived compromise arrangements, most ineffective in their working. When the government fails to do what it was expected to do each party absolves itself of responsibility by saying that it never had the power to do it and blames the other parties in the coalition for their common failure. In such a case it is not possible to punish any party at the next election.

¹J.A. Corry, *Elements of Democratic Government*, pp. 239-41.

The second evil tendency of the system of proportional representation is that it strengthens party machine. The list system definitely works in that direction. In Germany central party organisations strengthened their control over their respective parties. It is easy to centralise control of local party organization when constituencies are very large and candidates are chosen by the central organs of the parties. The party leaders and their favourites manage to place their names at the top of party lists ; and since voters are required to vote for the party lists (and not for individual candidates), at least the top candidates are sure of their election. As a consequence, parties become much less responsive to opinion in the constituencies, and members are not in close touch with their election districts. Moreover, by-elections, which are such useful barometers of opinion, are not possible under proportional representation. 'The central difficulty of the system is, of course, the large constituency and the long list, which inevitably throws into the hands of the parties, and more, the central council of the parties, the selection of candidates. . . . Further, if the party leaders settle the lists of names, they can demand unconditional allegiance from the successful candidates, and as a result the member's attention is turned away more to the party machine than to the constituency.'¹

As against the disadvantages of the PR, the following advantages of the existing system deserve to be noted. The arrangement which grants to the ruling party or groups an effective majority in the legislature simultaneously ensures their accountability to public opinion. 'From the point of view of people, this is an additional reason in favour of the existing system. The sense of power which this system is capable of creating among electors can strengthen attempts within ruling parties to circumvent the obligations of parliamentary government. This danger is real. But a system based on proportional representation can also be corrupted and rendered ineffective by opportunistic alliances.

'A final consideration in favour of the existing system is that it can accommodate diverse groups and achieve a high degree of effective participation. But for it the CPM, to cite one example, may not have been ruling West Bengal today. For in the June 1977 elections it secured only around 36 per cent of the vote. Such wide participation is possible only nominally in the case of proportional representation. Though it might allow smaller groups a legislative strength proportion-

¹See H. Finer, *Theory and Practice of Modern Government*, pp. 556-57.

nal to their popular vote, it would scarcely give them a comfortable majority of the kind that the CPM enjoys in West Bengal.¹

Monetary Factor in Elections. The third report of the Commission contained a note of helplessness in as much as the Commission observed that although the heavy expenditure then incurred by parties and candidates on their election campaign was undesirable, it was not easy to find practical, effective and generally accepted methods which would make them spend less. The fact that the expenses incurred by the political parties on the electioneering campaign of individual candidates or a group of candidates were not required to be included in the accounts of the latter made the prescribed maximum unreal and meaningless. The Commission, therefore, favoured either a drastic amendment of the relevant provisions of the law or their total repeal. The same views were reiterated by the Commission in almost identical terms in its fourth report.

The Commission suggested in its third report that the legal provisions should be spelt out in greater detail so as to make them effective. In particular it said that there should be a provision prohibiting election expenses being incurred by any person other than the candidate or his election agent unless authorised in writing by the candidate, and where any such authorised person incurred expenses, he should be required to furnish a detailed return of those expenses. By way of another effective measure to combat the growing evil the Commission suggested that the number of motor vehicles that might be used for electioneering might be limited to three in an Assembly and to six in a parliamentary constituency.²

In August 1978 both members of the treasury benches and the opposition agreed on this point during a debate in the Lok Sabha. The high cost of elections is the wages of corruption and hence the poll process has to be cleaned. They felt that a national consensus was, therefore, needed to deal with the problem. In a communication to the Government in September 1979, the Chief Election Commissioner suggested the creation of a Rs. 100/- crore fund over the next five years to finance elections. There seems to be no escape from the state taking on the burden of financing electoral and party expenses in a manner that is administratively viable and politically fair to all concerned. Allocating funds to parties on some *pro rata*

¹Anil Nauriya, 'The Proportional Representation: Serious Lacunas and Weaknesses,' Times of India, 28 April, 1980.

²See Subhash C. Kashyap, ed. *op. cit.*, p. 170.

basis is, of course, the best approach. But this may meet resistance as whatever criterion is fixed for calculating allocations—past record, candidates put up, or some formula involving a form of weightage—is likely to be resisted by one party or another. A better course to adopt, at least to begin with, will be for the government to provide free of cost to all parties all infrastructural facilities (meetings, field offices, quotas of paper for posters, public transport). Simultaneously, it should be required that returns for all other expenses incurred by parties be filed along with the returns of individual candidates and be subject to agreed ceilings.

At the same time there is need to raise ceilings of individual expenditures to more realistic limits. This will only be a beginning but it will go a long way in restoring the confidence of the people in the fairness of electoral politics. And on that basis more reforms can follow.¹ But the J.P. Panel or the Tarkunde Committee, did not favour providing money from public revenues to candidates to fight elections. A related question arises about company donations to political parties. Should the present ban on company donations continue? Tarkunde and others of the J.P. Panel on poll reforms rejected the proposal for lifting the ban on company donations to parties. Their thinking was that even if the majority of share-holders favour contributing to one party, a donation would still do violence to the feelings of those share-holders who hold a different view. "We are not satisfied that legalising company donations will necessarily prevent clandestine payments being extorted from companies."

Conclusion. From the comments and reactions published in the papers, it appears that the West German system of State subsidy, coupled with some variant of proportional representation, is finding a large number of supporters in India. Even the out-going Chief Election Commissioner favoured the adoption of the combination of the list system together with the present system on 50:50 basis. The Chief Election Commissioner felt that the new device would reduce the existing imbalance under which parties polling lesser percentage of votes, secure disproportionately large number of seats. Last, but not the least, no electoral reform will bear any fruit unless the Election Commission is freed of executive pressure and domination. It was commented by the Tarkunde Committee that the Election Commission was becoming less and less independent of the executive. A

¹Rajni Kothari, '*Financing of Elections : Political Legitimacy at Stake*,' *Times of India*, 14 Nov., 1979.

separate election department has necessarily to be much larger and more broadbased than even the Audit and Accounts Department.

'Implicit in this plea is the fear of pressure and domination by the powers that be—be they politicians of any shade. So, the politicians must first sincerely try to protect, preserve and uphold the independence of the Election Commission to ensure free and fair poll, which should not only be free and fair but also appear to be so, in the public eye so as to inspire public confidence and faith'. Hence, the observation is significant that "apart from electoral reforms, the major need today is for honesty, and the spirit of democracy to pervade parties and politicians whatever system we adopt". Again, "the immediate need is to rationalise the law, removing temptation, plugging loopholes, and enforcing observance. Unless basic honesty and faith in democracy is there we cannot have true democracy".¹

Election Commission Recommendations. The Law Minister said in the Lok Sabha on 12 October 1982, that the Election Commission had recently made two recommendations. First, on the question of defection, it suggested an amendment to the Representation of the People Act 1951, to include defection as one of the grounds for disqualification. The second proposal contained deviations and departures in certain respects from the proposals submitted by the earlier Chief Election Commissioner. One of these suggestions was to the effect that elections to the Lok Sabha and State Assemblies be held simultaneously. To start with, the Commission suggested, that it might be possible to hold simultaneous elections, at least in those cases where the gap between the two elections was less than one year or such elections were due within one year of an earlier election.²

VI. Voting Behaviour

Voting is only one act of the total political behaviour of the individual, who is exposed to diverse influences through various agencies over a period of time. To some extent it could be argued that vote formation is a continuous process affected by political events, political activities and political actors over a period of time. Sometimes the family, which is the primary unit of political socialisation, may be the dominant factor influencing the vote-formation. At other times it might be a group which offers advice to the voter. This could

¹Shanker Kumar Jha, *Perspectives on Poll Finance and Reforms*, J.C.P.S., July-Sep., 1978 pp. 345-47.

²Indian Express, 13 oct. 1982.

be a friends-circle, a caste-panchayat, a work-group or a neighbourhood-group. Electoral behaviour would also include : (i) participation in election meetings, processions etc. (ii) participation in election campaign ; and (iii) working as election agents etc.

Major Trends of 1967 Poll. (1) A surprisingly large proportion of the electorate had begun to show a consciousness of the meaning and power of the vote. (2) The electorate began to get disposed to exercise this vote directly, without being conditioned by caste or local influence. (3) It was willing to reprimand the ruling parties for perceived inadequacies in their public performance. It was acquiring a new political character and provide new linkages with secular authority. (4) There are convincing indications that voter decision is in large measure the consequence of a rational issue-oriented calculus. (5) Indeed an unexpectedly high proportion of the Indian electorate was thinking in party terms and Congress, particularly, was enjoying still a solid base of support. These trends were leading towards a more modern political system as the Indian voter was developing new secular identifications and commitments that cut across traditional primordial relationship.

The implications of the poll of 1967 for the Congress were momentous. It generated the process of internal disenchantment in the ruling party and some other parties. Some of the leaders began to understand and grasp the consequences of an increasingly critical electorate. The results indicated towards the direction of change. However in 1967 though "the voter had shown a tendency to become party-cum-issue oriented", the electorate had "yet to go a long way both in terms of party building and electioneering on the programmatic planks before the potential of this tendency was fully exploited in the fifth general election." As a result, policy issues began to assume a new primacy in the calculation of some of the Congress leaders and this began to be reflected in intra-party discussion and division within and out of the Congress.

Major Trends of 1971 poll. The mid-term elections to the Lok Sabha set forth the following trends in Indian politics : (1) It rejected the unpolarised and unprincipled coalition politics. While 1967 attacked the one-party dominance system, it could not offer an alternative to this system. (2) The political system moved to the left. (3) It indicated the decline of the "vote-banks" and the key-men. (4) There was seen a growing individuation in the voting decision and action. The influence of caste and such other primordial structures had visibly declined. The individuation phenomenon became an important variable

of political development from viewpoints of participation and political mobilisation.

With 1971 the circle of mass mobilisation was drawn fully. Every important sector of society was drawn into the ever-widening circle of politicisation and mobilisation, with scheduled castes and tribes having been activated as the last group. From the viewpoint of the behaviour of India's political community, the trends, events and processes of 1969-71 created new vibrations and new stirring in the whole society. The events generated as a concomitant of and consequential to 1967 and the series of dramatic events around the Congress-split in 1969 made deep impact on the minds of the Indian citizen. They percolated the hitherto "a-political" strata and politicised it.

All these trends led towards the emergence of mass-politics which was slowly replacing the elitist politics. So far the intermediary strata of rural leadership, caste leaders, sectional leaders, landlords, princes and the like dominating on the basis of traditional power, status or loyalties, as well as industrialists and traders were enjoying importance at the middle and local levels of the political system. A boss-system had existed that tactfully accommodated and used these elements. The leaders of these traditional elite-classes managed to win elections and play politics with their help. After 1971, slowly a context was developing in which the elite-mass relationship might change. This time, more emphasis was given on issues and policy than on the appeal of the elite maintaining their place by the use of the traditional structure of influence and dominance. With the development of a direct relationship between the top leaders and the mass, the insulation between the two was abridged.

The resounding victory of the Congress in West Bengal in 1972 surprised some people both in and outside the State. Compared with the performance of the party in 1971, its victory in 1972 could indeed look surprising. But it is evident from a scrutiny of the poll results since 1952 that the old Congress had a very strong support base in West Bengal and the bulk of that base was inherited by the new Congress. The spectacular success of the Congress and the defeat of the Left in the 1972 elections raised a storm of controversy. The analysis of the change in party preference of votes showed that of those respondents who had changed their party preference since 1971, the overwhelming majority changed from the left to the Congress. 'We have learnt through the application of the factorial method that "campaign exposure", satisfaction with the achievements of Mrs. Gandhi's Government," "satisfaction at the emergence of Bangladesh and the Govern-

ment's role", and "attitude towards a ceiling on property" had high positive association with the decision-making of voters in 1972.¹

A Comparative Analysis of 1977 and 1980 Elections to the Lok Sabha. In 1977 Lok Sabha poll the Muslim community voted on a secular basis. The Muslim vote had clearly split and whatever the reasons a large portion of it went to the Janta Party despite the fact that Jana Sangh was one of its important constituents. The fact that the Congress party secured less than one per cent of seats in the Hindi belt, while the party won 70 per cent of the seats in southern states can only be explained in this context. This was, of course, a reversal of the earlier trend.

While a worthwhile analysis of the recent voting behaviour should await further data, it is obvious that the Muslims as a community in India did not vote on religious considerations. According to a computer analysis in 64 constituencies where the Muslims constitute between 20 and 50 per cent of the voters, the Congress (I) polled 36.48 per cent of the vote while the Janata, the Lok Dal, the Congress (U), the CPM and some other parties of the left front together claimed 57 per cent. Of 64, 24 constituencies are in Uttar Pradesh, 21 in West Bengal, five each in Kerala and Andhra Pradesh, four in Bihar, two each in Gujarat and Assam and one in Rajasthan.

Greater indifference among the voters has been noticed in the 1980 Lok Sabha poll as compared to the 1977 election, which put the Janata Party in power, but a steep decline in the earlier preference for the Janata has helped the Congress (I) to re-establish its supremacy. An analysis of data computerised by PTI reveals that as many as 124 million of the electorate did not care to vote, taking 431 constituencies for which figures were available. In 1977, the apathy was confined to 102 million voters in these areas. A study of the voting pattern for the 431 seats between 1980 and 1977 showed a drop in percentage of votes polled to 57 per cent, from 60.90 per cent and a marked shrinkage in 1977 to 28 per cent, taking both the Janata and the Lok Dal in 1980.

The Congress led by Mrs Indira Gandhi, which suffered a setback mainly in the North in 1977, retained its 1971 level of share of votes (around 45 per cent), recovering from the 35.89 per cent low in 1977. Though it was an undivided Congress in the previous two elections, the Congress (I) by itself claimed the same share of votes as in 1971

¹Ganguly and Ganguly, *Voting Behaviour in a Developing Society: West Bengal: A Case Study*, pp. 175-76.

in these 431 constituencies. The Congress (U) secured just 6 per cent of the votes, but it fielded only 180 candidates. At the national level (for 431 seats) after the Congress (I), the Janata, the Lok Dal and the Congress (U), in terms of voting share, the CPM was ahead of the CPI, the former with more than 4 per cent and the CPI with less than 2 per cent—a record bettered by the AIDMK and the DMK in the South alone. Broadly, 50 per cent of those who chose to go to polling booths voted for the Congress (I) and the Congress (U) and about 28 percent for the Janata and the Lok Dal taken together.

Electoral Turn-out. An analysis of electoral turn-out to India's urban constituencies from 1952 to 1972 revealed the following findings : (1) urban turn-out was generally higher than rural turnout. (2) Differences in turn-out between rural and urban areas were greatest in the late 1950's and early 1960's, but in recent elections these differences diminished as a result of a more rapid increase in rural turn-out. (3) Differences in turnout between urban and rural constituencies were generally greatest in the most backward states ; that is, those with the lowest levels of economic development, and least in India's more developed states. (4) Urban constituencies with the largest turn-out were typically located in States where the rural turn-out was also high, while the urban constituencies with a low turnout were generally scattered throughout the various states. (5) Turn-out for larger cities was generally no greater than for other urban areas, and turn-out for smaller towns was generally no less than for other urban areas. Where differences in turn-out exist in a state between urban and rural settlements, the smaller towns resembled other urban constituencies more than the rural constituencies in the state. In short, urbanity is a determinant of electoral participation in India, but there are considerable variations in turn-out from one urban constituency to another.

'Political protest, as measured by electoral preferences, is greater in urban than in rural India. This observation must be qualified by three reservations, however. One is that spatial factors are at work in the distribution of protest among urban constituencies, an observation consistent with our findings concerning the importance of state context in accounting for variations in turn-out. The second qualification is that the extent of urban electoral protest is closely related to the competitive strategies pursued by 'protest' parties. And the third is that electoral protest based on ethnic or regional sentiments is as prominent in rural as in urban constituencies. 'In short, from 1952 through 1967 the cities of India were increasingly being polarized between the

radical left-and right wing parties, on the one hand, and the Congress, on the other. In the cities of the Hindi region the clash was between Congress and the Jana Sangh, while in many of the cities of West Bengal, Andhra, and Kerala (plus a scattering of cities elsewhere in the country) the polarization was between Congress and the communists. From 1952 through 1962 Congress and the radical parties appear to have taken their votes from independents and other opposition parties. In 1967, when the smaller parties and independents improved their position in urban India, the struggle was more sharply between Congress and candidates either of the radical left or right.¹

The survey data conform the impression that the majority of the Indian electorate have little or no real interest in politics. 'Unfortunately, this is the situation with voters in most democratic countries, including those where the democratic system has been firmly established for many decades. A citizen may have a high degree of political awareness, for this is determined mainly by his level of political information, without having any extensive *political understanding*. The latter involves an understanding of the general nature and working of the party system and the political process and some real perception of the issues and stakes in the elections. 'In India political understanding is quite high in some respects, and surprisingly seems to compare favourably with that in much more developed countries with greater experience in the democratic process and with a much more highly educated and experienced electorate.'

'*Party identification* does not necessarily involve active participation in party affairs. This is clearly impossible for there are few real political activists in Indian politics, and most of those who identify themselves with a party seem to feel no impulsion toward an active role in that party. In many cases the attachment is more of a psychological than an active one. Nor is party identification a necessary proof of actual voting behaviour, as measured by the ways a citizen casts his vote. Presumably a person who identifies himself with a particular party will vote for that party, but of course this is not always the case, especially in elections where, as in the fourth general elections in India in 1967, large numbers of voters who normally support and are identified with a particular party become disenchanted with the party and either refrain from voting or give their support to

¹Field et al, *Electoral Politics in the Indian States : The Impact of Modernization*, pp. 19-33.

rival parties and candidates.'

A sense of political efficacy 'may be defined as the feeling that [individual political action does have, or can have, an impact upon the political feeling that political and social change is possible, and that the individual citizen can play a part in bringing about this change. 'The sense of political efficacy on the part of the electorate constitutes the heart of a democratic political system. In fact the voting act is at once the cause and the effect of the sense of political efficacy that citizens feel that they matter in the polity of their country...'¹

Social factors that Influence Voting. The social factors like caste, kinship, religion and neighbourhood have a more significant role in influencing voting behaviour in a traditional rural society like the Indian. From this point of view it could be said that some broad generalizations about Indian voting behaviour are possible. Caste and not class is an important variable in Indian voting. Factionalism plays a dominant role in deciding the voting pattern. Regional, linguistic or religious minorities generally play safe in voting for the party in power. The peripheral groups tend to vote communitywise. The women exhibit a strong tendency to vote as the menfolk of their families; social factors, like caste, kinship, neighbourhood, and religion assume greater significance than parties, trade unions or chambers of commerce.

¹Norman D. Palmer *op. cit.*, pp. 238-52.

Local Government

I. Introduction

Local government is today much more important in the daily life of a citizen than the state or central government; as its functions have increased and are likely to increase further. It has rightly been remarked : "Local authorities have greater opportunities today than ever before. If the powers of the central government are increasing, so are the powers of the local councils." In short, important reasons for the comparative lack of success of the local self-governing institutions before independence were ; (i) Failure in British and Indian leadership, except a few leading figures of Ripon and Gokhale local government did not bring forth a courageous response from either British officials or Indian leaders; (ii) There was the great difficulty that no separate indigenous local government tradition existed (except for the village organisation) distinct from the centralised administration of the State, upon which nineteenth century official could build; and (iii) Certain adverse factors such as poverty, political ferment, social flux and economic classes.

The plea for greater autonomy to rural local bodies received conceptual strenght with the advent of Mahatma Gandhi on the national scene and his enunciation of the doctrine of national development through autonomous rural organizations, which he desired to model on the lines of panchayat system as it prevailed in ancient India. He said : 'My idea of village Swaraj is that it is a complete republic, independent of its neighbours for its own vital wants, and yet inter-dependent for many others in which dependence is a necessity. Thus, every village's first concern will be to grow its own food crops and cotton for its cloth. It should have a reserve for its cattle, recreation and playground for adults and children...'

In the First Five-Year Plan it was recommended that to enable panchayats to play their part in organising village development programmes, legislation should confer on them certain functions in

village production programmes and the development of village lands and resources. This proposal was further examined. The functions of village panchayats could be distinguished broadly between two groups - administrative and judicial. Administrative functions could be divided conveniently between (1) civic, (2) development, (3) land management, and (4) land reforms.

Democratic Decentralisation The idea of 'Democratic Decentralization' was mooted in the report of the Balwant Rai Mehta Study Team. The essence of its proposals lay in the fact that it swept away the network of voluntary, bureaucratic and ad hoc agencies of rural development, which had dominated the earlier phase of the Community Development programme, and made a strong plea for the creation of statutory, elective and representative institutions to take charge of the programme of rural development at the block level. This elected statutory body, designated as 'Panchayat Samiti' by the Study Team, was visualized as an organ of local self-management in the sphere of planning and development. So it emphasized the need for decentralisation of decision-making powers, which had hitherto been vested in the State Government, to this body. The crucial change envisaged by the Study Teams's proposal was the entrustment of executive powers to a statutory body consisting of elected non-official members in place of the permanent employees of various executive departments of the government. This change in the locus of authority necessitated a corresponding change in the approach towards supervision and control.

The Team drew a distinction between delegation of power and decentralisation. In the former case the government does not divest itself of ultimate authority for the actions of the lower authorities to whom power is delegated. But decentraliation is that processa whereby the government divests itself completely of certain duties and responsibilities and devolves them on some other authority. The Mehta Study Team recommended 'democratic decentralisation of development work, which was to cover agriculture, animal husbandry, co-operation, minor irrigation works, village industries, primary education, local communications, sanitation, health and medical relief, local amenities and similar subjects.' This embraces virtually all of the services of local government.

Democratic decentralisation was intended to be an important medium for people's participation in the work of government at lower levels. It differs from administrative decentralisation, as it involves devolution of authority. 'Administrative Decentralisation'

implies the right to the freedom of implementing a project which includes the necessary right to do associated planning from the operative standpoint. Democratic decentralisation, however, implies people's right to initiate their own projects for local well-being and the power to execute and operate them in an autonomous manner.... Again, the idea of democratic decentralisation is not to be confused with delegation or deconcentration. Delegation or deconcentration consists in the grant of authority from a superior to subordinate authority, to be enjoyed by him not in his own right but as a derived concession and that also to be exercised at the pleasure of the superior.¹

The ingredients of the concept of democratic decentralisation are : (1) As the word 'democratic' indicates, the object postulated here implies a larger and closer association of the people with their own government. (2) There is devolution or dispersion of authority from the higher levels of the government to the lower levels. (3) This dispersion of authority assumes the form of autonomy to the people at lower levels to take political decisions with regard to policy formulation and work programme, to devise ways and means, to execute it, to manage and control its administration. (4) The authority, thus decentralised, should be managed by the people directly or indirectly through their representatives and thus the institutional machinery of democratic decentralisation should necessarily be elective.² Thus, panchayati raj institutions are neither exclusively 'political nurseries' nor mere 'extensions' of the State administrative apparatus at local levels. They are intended to be instruments of nation-building in the economic sphere.

Panchayati Raj Scheme. The proposal for 'Democratic Decentralisation' in its institutional form has come to be known as Panchayati Raj. The idea has taken different institutional forms in the various States. Even the Study Team itself had envisaged the possibility of structural variations in the institutional framework of panchayat raj. The establishment of panchayati raj institutions only meant provision of a formal structure for the association of rural people with plans of local development. The uniqueness of panchayati raj institutions lies in their development orientation in the specific context of planned economic change as also in their treating the elected representatives

¹Iqbal Narain, '*Democratic Decentralisation : The Idea, the Image and the Reality*', I.J.P.A., Vol. IX, No. 1, 10-11.

²Ibid., 15.

of the people as motivating power and instrument behind this development. The establishment of panchayati raj institutions with the objectives of economic development and self-government at rural local levels is one of the most profound politico-economic innovations in the rural government of the country.

The term 'Panchayati Raj' refers to a three-tier structure of rural local self-government in each district. It calls for a transfer of responsibility for much of rural development administration to these local authorities. Under the new arrangement the old district boards were replaced by a new district authority, supplemented by other local authorities at the block and village levels. The general pattern outlined was a three-tiered system of rural self government, the tiers linked by a system of indirect elections. On 12 January 1958, the National Development Council of the Government of India endorsed the proposals for democratic decentralisation.

The basic principles on which the scheme lays stress are : (a) The motive force for improvement should come from the people themselves. Self-help is at the root of all reforms, the State assisting with supplies and services and credit. The vast unutilised energy lying dormant in the country-side should be harnessed for constructive work, every family devoting its time not only for carrying out its own programmes but also for the benefit of the community. (b) The co-operative principle should be applied in its infinitely varying forms for solving all problems of rural life. The establishment of democratic institutions at the District and Block levels and the role assigned to the Gram Sabha and the Village Panchayat constitute fundamental and far-reaching changes in the structure of District Administration and in the pattern of rural development. Their significance lies in the fact that, subject to guidance and supervision by the State Government, the responsibility for the implementation of rural development programmes will now belong to the Block Panchayat Samiti working with Panchayats in the village and the Zila Parishad at the District level. Representing, as it does, a district level of responsibility and functions within the general scheme of administration, Panchayati Raj comprehends both the democratic institutions and the extension services through which development programmes are executed.

'To ensure the necessary co-ordination between the Panchayat Samiti, we suggest a Zila Parishad of which the members will be the member of the Parliament representing a part or whole of a District, whose constituencies lie within the District and District level officers

of the medical, public health, agriculture, veterinary, engineering, education, backward classes welfare, public works and other development departments. The collector will be the chairman of this Parishad and one of his officers will be the Secretary. It will examine and approve the budgets of the Panchayat Samiti. Where funds are allotted by the Government for the District as a whole, their distribution between the various Blocks will be made by the Parishad; it will co-ordinate and consolidate the Block Plans, annual as well as quinquennial; where grants for special purposes are needed or demanded by Panchayat Samiti, these also will be consolidated and forwarded to the government by the Parishad. It will also generally supervise the activities of the Panchayat Samiti. It will replace the present District Planning Committees. It may be necessary to have standing committees of the Zila Parishad to ensure rapid disposal of work.

The Mehta Team observed : 'While the broad pattern and the fundamentals may be uniform, there should not be any rigidity in the pattern. In fact, the country is so large and the Panchayati-Raj so complex a subject with far-reaching consequences, that there is fullest scope for laying out various patterns and alternatives. What is more important is the genuine transfer of power to the people. If this is ensured, form and pattern may necessarily vary according to conditions prevailing in different States. The recommendations of the Central Council of Local Self-Government have formed the main basis of the policy of the Government of India in the matter of implementation of Panchayati-Raj. There has been no insistence on a rigid pattern; it has been left to the States to work out a pattern suited to their requirements.

II. A Brief Survey of Panchayati Raj

Gram Sabha and Panchayat. The Gram Sabha comes closest to the Mehta Study Team's concept of *participatory democracy*; and constitutes the base of the Panchayat. The Gram Panchayat, which is the executive organ of the Sabha, is elected by the latter body. The size of the panchayat varies between five and nine members in Punjab; between five and fifteen members in Tamil Nadu; and between sixteen and thirtyone members in Uttar Pradesh. The members of the Panchayat are elected, generally on the basis of territorial wards, by secret ballot in all States except Assam, Jammu and Kashmir and Uttar Pradesh. All States, except four, have reserved a specified number of seats for women and also provide special representation for scheduled castes and tribes. In five States Sarpanches are elected directly by the mem-

bers of the Sabha; in others they are elected by members of the Panchayats from amongst themselves.

The panchayats, which number over 2,03,000 cover 94 per cent of the villages and 95 per cent of the rural population of India. Their functions have been divided into obligatory or discretionary. These usually include municipal administration, cultural, social and many developmental activities, promotion of cottage industries and the registration of births and deaths. The main emphasis is on 'development' activities, such as agriculture, animal husbandry, cooperation, minor irrigation, village industries, primary education, local communications, sanitation, health, and local amenities. But there is also generally an enabling provision permitting the Panchayats to function as an agent of the State Government or a higher level Panchayati Raj body for such functions as the latter may see fit to transfer to the Panchayat.

To enable them to discharge these functions, Panchayats have been authorised to tax their members, though there are variations regarding the types of taxes that the Panchayats can impose. They can generally impose taxes on property, animals, vehicles and professions and trades, as also a cess on land revenue or on the rent of agricultural land. They may also levy taxes on shops, realise octroi fees, and impose rates on water and electricity where these facilities are provided by the Panchayat. In Bihar and Gujarat, Panchayats are empowered to collect the land revenue and receive a commission on all collections. In all, except five States, Panchayats receive, as a grant from the State Government, a part of the land revenue collected from within their jurisdiction. West Bengal alone has Anchal Panchayats, which have jurisdiction over a group of Gram Panchayats and are responsible for the local watch and ward, supervision over Nyaya (i. e. judicial) Panchayats and the management of the State Government's properties within its area.

The Panchayat Samiti. Its jurisdiction is co-terminus with that of the development block, except in three States where the area of the Samiti coincides with that of the Taluk of Tehsil. In six States, the Sarpanches of the Gram Panchayats are ex-officio members of the Samiti. In some others representatives of the Samiti are elected directly by the Gram Sabhas or by the Sarpanches from amongst themselves. Generally, there are also provisions for the reservation of seats for representation of cooperatives and for co-option of members with special experience in specified fields. The members of the State legislature, whose constituencies fall within the area of the Samiti, are

generally members of the Samiti; but in nine States such members have no right to vote. Similarly, in Bihar, the local member of Parliament is a non-voting member of the Samiti.

In all States, the Samiti has been entrusted with functions falling generally within the category 'of development'. It has been vested with specific responsibility in the fields of primary education health and sanitation, and communications. It is also required to exercise some supervision over the Gram Panchayats within its jurisdiction. In three States, the Samiti can offer suggestions regarding the budget of the latter body and it must be approved by the Samiti. The Samiti draws its resources mainly from the funds allocated for the block budget and the funds earmarked for specific schemes which may be transferred for execution to the Samiti as agent of the State government. The Samiti generally receives, as a grant from the State Government, a share of the land revenue.

The Samiti functions through standing committees dealing with specific aspects of the Samiti's work, such as finance, production programmes, and social welfare. Implementation of the decisions of the Samiti and its committees is the responsibility of the Block Development Officer who functions as the chief executive officer of the Samiti and the Block staff. The only real exception to the above pattern is Maharashtra where the Samiti, in effect, merely advises the Zila Parishad on proposals for development work in the area of the Samiti and performs such other functions as the Parishad may wish to delegate to it.

Zila Parishad. The third tier of the Panchayati Raj structure is the Zila Parishad, which exercises jurisdiction over the area of a district, except in two States. In one, it functions at the sub-divisional level, while in the other, twelve districts have been reallocated to form, for the purposes of the Zila Parishad only, twentyone 'development districts'. The Presidents of the Samitis within the area of the Parishad are ex-officio members of the Zila Parishad in all States. In some States, the Samitis elect an additional representative to the Parishad, there is also provision in three States for direct election, by all members of the Gram Sabhas to the Parishad. Provision also exists for the usual reservation of seats for the 'weaker sections' of society and for co-option of members possessing particular qualifications or experience which may be considered helpful to the Parishad in its work.

In Andhra Pradesh, Assam and Rajasthan, the members of the

legislature are members of the Parishad, who may vote and may also hold office in the Parishad. In Bihar, Tamil Nadu, Madhya Pradesh, and Uttar Pradesh they may vote, but they are not allowed to do so in Gujarat, Orissa and Punjab. The collector is a member of the Zila Parishad in Andhra Pradesh, Gujarat, Tamil Nadu, Karnataka, Orissa, Punjab and Rajasthan. He is ex-officio Chairman of the Parishad in Tamil Nadu and Karnataka and of all the standing committees of the Parishad in Andhra Pradesh.

The functions of the Zila Parishad vary considerably from State to State. In several States, the Parishad has specific executive responsibilities with regard to such matters as the establishment and expansion of secondary education and of vocational and industrial schools. In Maharashtra the Parishad is the most important institution of the Panchayati Raj system and is vested with executive functions in various fields, including community development and advising the State Government in certain matters.

But in most of the remaining States, the Parishad has no specific executive functions and is essentially a body concerned with exercising supervisory and co-ordinating functions with reference to the working of the Panchayat Samitis within its jurisdiction. In some States, the Parishad is empowered to levy taxes or to enhance those already imposed by the Panchayat and Panchayat Samitis. However, the funds of the Parishad come mainly from the share of the land revenue and other local taxes assigned to the Parishad by the government. While the funds earmarked for specific schemes to be entrusted for implementation to the Samitis are included in the budget of the Parishad, the latter body has little to do except distribute them to the Samitis according to the allocations made by the State Government.¹

III. Panchayati Raj (Ashoka Mehta) Committee Report

The committee was appointed by the Government of India in December, 1977 with Ashoka Mehta as its Chairman to "enquire into the working of the panchayati raj institutions and to suggest measures to strengthen them, so as to enable a decentralised system of planning and development to be effective." The committee submitted its report in August 1978. Broadly, the committee indicated its preference for a two-tier system—a district level Zila Parishad and a mandal

¹Sec S.V.S. Juneja, '*Panchayati Raj : A Survey*,' I.J.P.A., January-March 1973, 60-64.

panchayat. In a broad survey of the various phases through which panchayati raj has passed since its introduction in 1959, in the wake of the recommendation of the Balvantray Mehta Study Team, the Committee has observed that "the story of panchayati raj has been a story of ups and downs". Its three phases have been those of ascendancy, stagnation, and of decline.

Of the several factors which seem to have contributed to the weakening of panchayati raj in the country, mention had been made about their structural inadequacies, the role of the bureaucracy, weakening of political will, lack of conceptual clarity as also the dominance of the economically or socially privileged sections of the society in the panchayati raj institutions, thereby depriving the weaker sections of the benefits which could have legitimately reached them through these institutions. Apart from these, other factors such as factionalism, corruption, inefficiency, political interference, parochial loyalties, motivated actions, power concentration, etc., severely limited the utility of panchayati raj for the average villager. Lack of adequate resources was another crucial factor which thwarted their growth as a viable instrument of rural development management for over two decades. Having taken note of these development, the Committee has observed that it would be unfair to single out panchayati raj for these weaknesses and failures which are all-pervasive and affect all levels of Indian polity. The problems of corruption, inefficiency and procedural irregularities are embedded in the social complex and no level of polity is immune to them. General factors such as the social milieu, the situational compulsion, the context of scarcity, mal-adjustments, the fast changing environment, inadequate knowledge, etc., further complicate the situation.

The Committee has, however, reaffirmed their vibrant faith in the democratisation process, as a component of modernisation, and concluded that "the fact of the matter is that the panchayati raj institutions have not been given a chance to serve as a vanguard of development....wherever they have been given the responsibility, to whatever limited extent, as in Maharashtra and Gujarat, they have done well." Some of the spectacular gains of decentralised democracy have been in the political, administrative and socio-cultural fields. It became a process of democratic seed-drilling in the Indian soil by making an average citizen more conscious of his rights. It bridged the gulf between the bureaucratic elite and the people and also generated new leadership which was relatively young in age, modernistic and pro-social change. From the developmental point of view as

well, it helped the rural people cultivate a developmental psyche.

District as the First Point of Decentralisation. It is against this broad perspective that Committee's proposals for decentralised development management and the other aspects of panchayati raj have to be necessarily viewed. The district, as the first point of decentralisation, has been regarded as a functional imperative. Committee's recommendation has been influenced by several factors: The district has remained the pivot of local administration for a very long time, availability of administrative and technical competence of the requisite calibre at the district level for planning, supervising and coordinating development programmes. The zila parishad has emerged as the key unit of panchayati raj, endowed with a comprehensive range of developmental responsibilities. In order to enable the zila parishad to undertake the planning process, the need for a qualified professional team at the district level for the preparation of district plans has been highlighted.

Before the technical plan prepared by the expert group is submitted to the State Government, it will be placed before a committee of the whole zila parishad. It is envisaged that this committee, should have MPs and MLAs as ex-officio members. This is expected to assure a greater consideration of the technical plan placed before the zila parishad and provide the advantage of the knowledge of the MLAs, both of the field level and the State level problems. Thus the technical plan would, in a large measure, be influenced by the representatives of the people. It has been provided that the State Government should not only have a machinery for examining the district plans but should also have detailed discussion with the districts representative and the planning group.

The Committee System. An important recommendation relating to the structural and functional designs of panchayati raj institutions in general, and the zila parishad in particular, is the introduction of the committee system. It is envisaged that the zila parishad will function through a number of committees; the important ones suggested are on agriculture, education, small industries, finance, public works and social justice. A standing committee, comprising of the chairmen of these committees, will have the chief executive officer as its secretary. The committees are to be constituted on the basis of proportional representation with a view to have all shades of opinion represented on them. The concerned district officers will be the secretaries of their respective committees.

The Mandal Panchayat. In its search for an areal unit of decen-

tralisation unit below the district level, capable of handling the technological requisites of rural development, the Committee has arrived at the conclusion that, in due course, the mandal panchayat will have to be the base level organisation for project implementation. It will be located immediately below the block and will have the responsibility of meeting the municipal and welfare needs of the people besides other functions. This would alone enable these democratic institutions at the grass-root level to function as dynamic instruments of socio-cultural change ensuring a higher level of incomes and better standards of living for the bulk of the rural population. The mandal panchayat would be constituted covering a population of 15,000 to 20,000. The Committee has envisaged that, in general, mandal panchayats will have to administer, coordinate and provide institutional supervision of on-going field level projects ; it is also visualised that some of the block level functions would have to be moved upwards as only the district level body would be competent to discharge them.

The Collector's Role in the District. The district collector will continue to play an important role in the district set-up, notwithstanding the transfer of all developmental functions to the zila parishad. It has been recommended that the regulatory functions will remain with the collector, as, for some time to come, he will continue to exercise the regulatory, revenue and other functions assigned to him by the State Government. The collector has also been made responsible for organising the conduct of social audit as the representative of the State Government. The Committee has felt that the issue relating to transfer of regulatory function to the zila parishad should be reviewed in due course. As regards the recruitment of the zila parishad staff, it has been proposed that this may be undertaken by State/district level boards and they should function independent of zila parishad control.

Of the several recommendations of the Committee concerning the weaker sections, perhaps the most crucial relate to measures aimed at ensuring adequate representation to scheduled castes/scheduled tribes commensurate with their numbers. The Committee has recommended that : (i) in order to provide a fair deal to scheduled castes and scheduled tribes their representation in all panchayati raj institutions should be on the basis of their population; (ii) 666 talukas/blocks where the scheduled castes constitute more than 20 per cent of the population and in 329 talukas/blocks where scheduled tribes constitute a majority, the principle of reservation should be exten

ded to elective offices.

Besides, certain other institutional devices have been suggested with a view to effectively contain and eliminate distortions and malpractices which so very often have been noted. Formation of social justice committees in panchayati raj institutions at various levels has been suggested to safeguard the interests of the weaker sections. It has been provided that the chairmen of these committees will invariably belong to the members of scheduled castes/scheduled tribes. These committees are to be assigned the following functions : (a) matters of common or individual projects designed for the weaker sections of the society, including scheduled castes/scheduled tribes; (b) planning and implementation of schemes including all matters relating to house sites, village sites, loans, subsidy, education, etc ; (c) investigation into and disposal of cases of injustice and discrimination being done to weaker sections, including persons belonging to scheduled castes/scheduled tribes ; (d) planning, formulation and implementation of the schemes generally and out of the amounts earmarked for them or from their own resources ; and (e) all other situations and matters arising in respect of each case.

Social Audit. Creation of an independent authority to carry out social audit is another measure intended to ensure that the funds and programmes earmarked for the scheduled castes and scheduled tribes as also the projects designed for them are implemented properly. Through social audit an administrative mechanism is sought to be created which seeks to create a system of sustained evaluation not only in terms of money spent on schemes and programmes, or the quantum of funds utilised, but rather in terms of short-term targets and long-term objectives and the nature and extent of their impact upon the targeted groups. The committee has expressed the view that decentralisation of all functions relating to plan implementation at district level to the zila parishad will also involve transfer of finance along with the projects.

Other Suggestions. While emphasising the need for the panchayati raj institutions in general and for mandal Panchayats in particular to build up a more diversified resource base with greater intensity and elasticity, the Committee has suggested necessary support by the State Governments from budgetary sources supplemented by institutional finance for establishing remunerative enterprises. In addition, a permanent annual grant of not less than Rs. 2.50 per capita to mandal panchayats has been suggested as an objective to be pursued in the allocation of financial resources to the panchayati raj institutions.

The Committee has made a number of valuable suggestions relating to simplification of budgetary procedures, provision of a high-ranking finance officer, expeditious settlement of audit objections, submission of utilisation certificate and other related matters. The Committee has also desired that the State Government should consider the desirability of constituting committees of the legislature to be specifically concerned with the financial and physical performance of panchayati raj institutions. It is also envisaged that along with the consolidated final accounts, the State Government should lay an administrative report before the legislature on panchayati raj institutions.

Training for the Personnel. The Committee has emphasised the importance of human resource development as an integral part of the developmental process. Recognising the fact that in many ways human resource is more vital than the financial, the Committee has taken the view that human resource development should be the primary feature of panchayati raj. Training is widely regarded as an investment in human resources. The Committee has, therefore, appropriately devoted its attention to this crucial aspect and offered a broad framework for developing a comprehensive training programme for the officials as well as the panchayati raj functionaries at various levels. An appreciative awareness of the current status and future requirements is distinctly discernible. Revitalisation of the existing training institutions which are reportedly functioning in a low key, augmentation of their numbers and resources and upgradation of the National Institute of Rural Development as the apex institution for training of trainers, and for carrying out field studies, research and consultancy assignments are some of the remedial measures recommended by the Committee.

Relation with the Cooperatives. The suggested pattern of functional relationship between the panchayati raj institutions and the cooperatives will broadly be of five types : i) Functions which could more appropriately and effectively be discharged by cooperative institutions. (ii) Functions requiring concurrent and conjoint action of panchayati raj and cooperative institutions. (iii) Cooperatives functioning as agents of panchayati raj institutions. (iv) Functions in respect of which cooperatives require facilities from the panchayati raj institutions. (v) Where cooperatives participate in functions which are essentially the responsibility of panchayat raj institutions. It has been stressed that the relationship between panchayati raj institutions and cooperatives has to be a coordinate rather than of subordinate

character. Since panchayati raj institutions have to confine themselves to promotional and coordination tasks, representation of cooperatives on panchayati raj institutions will provide the institutional framework for a sustained dialogue between the two. However, reciprocity of representation has not been favoured.¹

Justifying the direct association of political parties with panchayati raj institutions, Mehta Committee said : "We gave careful thought to the matter. Our opinion is that political parties should not be kept out. If they are involved in the institutions, they become answerable." According to the Committee, political parties would directly contest elections to panchayats. After the elections, the work would be carried on by committees to be elected on the basis of proportional representation. This would have the advantage of both political competitiveness and co-operative effort.

The notion that "politics" is a species of impurity reserved only for contention at the state, national levels and that it should not be allowed to pollute rustic life is, unfortunately, quite widely held in this country, but is no less absurd for that reason. Politics as conducted through parties but not exclusively through them, is essentially the participation in public affairs of those affected by them. As political awareness spreads, that participation cannot but get wider and wider, embracing sections of the population hitherto forming an inert mass. Such awareness is spreading in the villages which are on the march. The near-ubiquitous caste and class conflict in the country today is a sign of this. Further evidence is that even in Bihar and Rajasthan which recently held ostensibly "partyless" panchayat polls, in fact political parties were up to their necks in the fray in the way they were in West Bengal and Kashmir where panchayat contests were fought openly on party basis. Since political parties have become the main channels of mass involvement in local (and not so local) issues and since "partyless" polls in practice partake of the same competitive nature except for the labels, the realistic thing to do, as the Ashoka Mehta Committee has suggested, is to come to terms with the overt politicalisation of rural affairs and try to harness the forces it generates to widen, deepen and strengthen the over-arching political system.²

¹See K.B. Shukla, '*Panchayati Raj Revisited*', I.J.P.A., Oct.-Dec. 1978, 1161-71.

²Times of India, editorial 4 Sep. 1978.

IV. Types and Organisation of Urban Bodies

Indian Census authorities have adopted a strict definition of what may be called 'urban'. Under this definition, fulfilment of the following criteria is necessary for a place to be designated as 'urban' : (a) places having urban local bodies such as a municipality, a municipal corporation, a cantonment, board or a notified town; and (b) other places which have : (i) a minimum population of 5,000 ; (ii) at least 75 per cent of male working population is non-agricultural ; and (iii) a density of population of at least 400 per sq. km. (i.e. 1000 per sq. mile). Further the Indian census has adopted a six-fold classification of cities and towns on the basis of size of population, as shown in the following table :

Population Size	Classification
1,00,000 and above	Class I
50,000 to 99,999	Class II
20,000 to 49,999	Class III
10,000 to 19,999	Class IV
5,000 to 9,999	Class V
Less than 5,000	Class VI

The number of urban places has been steadily increasing over the census decades. But it is the bigger towns belonging to class I that account for the major proportion of the urban population. Whereas all the towns belonging to Class II to VI together account for nearly 48 per cent of the urban population, the cities in class I alone contain the remaining 52 per cent. In some States of the Indian Union, the class I cities account for even higher percentage of the urban population. 'Of the five types of urban local government in India, viz. municipal corporation, municipality, notified area committee, town area committee and cantonment board, it is in municipal corporations and municipalities which can be termed as fully representative urban local bodies. Their importance in urban administration can be gauged from the fact that together they serve more than 93 per cent of the total population covered by all categories of urban local bodies. The quality and quantity of local services, these two types render, have a significant bearing on the health, happiness and

economy of our urban areas and their vast 'influence areas'. As grass-root democracies, these municipal institutions form an integral component of our democratic system, and they are meant actively to reinforce the general tenor of the country's political liberalism.

Although after Independence attempts have been made to introduce changes in the system of rural local government, urban local institutions have, by and large, been left undisturbed. In the urban sphere at least, the persistence of historical forms of local government testifies to the absence of any terminal thinking on the subject. In spite of their palpable imperfections, municipal institutions in the district towns have some semblance to the British type. But a number of big city municipalities were converted into Municipal Corporations after the basic framework of Bombay. With the democratization of the corporation councils, the concept of coordinate authorities came to be regarded as an unwavering custodian of 'efficiency' and a salutary check on the representative council. Although after Independence, revolutionary changes have taken place in the structure of government at higher levels, yet in the field of Municipal Corporations no significant change has taken place, except in the case of Delhi Municipal Corporation.

Since the basic framework of the Municipal Corporation of Bombay has been the model, for all corporation government throughout India is structurally uniform. An act governing a corporation invariably provides for three coordinate authorities, viz., the corporation or the city council, the State-appointed commissioner and one or more standing committees. The number of statutory authorities has been increased in some instances to give autonomy, within the general framework of the corporation, to the administration of specific public utility services, such as water supply and sewerage, transport and electricity. By contrast, municipalities in India exhibit varieties in their governmental structures.

The traditional framework has been of a conciliar type, the council consisting of popular representatives exercising powers in corporate capacity. The chairman (also known as president) and his deputy enjoy limited statutory power, but the council can give them more powers by delegation. As the office of executive officer has not developed except in a few places, the chairman remains the head of both the council and the executive administration of the municipality. Even now, this is the model of municipal government throughout eastern, northern and western India, although the office of the executive officers has been created in most places to strengthen executive

administration. In general, the executive officer functions under the general guidance and direction of the municipal chairman. However, municipal structure in the southern States is somewhat different.¹

The various local self-governing institutions in the country may be broadly grouped into the following classes : (i) Urban-Corporations, Port Trusts, Improvement Trusts, Municipalities, Cantonment Boards, Notified Town Areas. A Municipal Corporation is different from a Municipal Board in respect of the scope of its powers and functions. The former is especially created by an Act of the Legislature concerned for a particular big city or cities. Its chairman is known as Mayor and it may have some aldermen. In its working it enjoys much greater autonomy than Municipal Boards: The older corporations are those of Bombay, Madras and Calcutta ; recently corporations have been established in Nagpur and Jabalpur and the U.P. Government has also established similar bodies in the big cities of the State viz. Kanpur, Lucknow, Allahabad, Agra, Varanasi Bareilly, Meerut and Gorakhpur. A Cantonment Board is meant for a large military station. It manages the municipal affairs for the civil area lying in the cantonment limits; its functions and powers are more or less similar to those of a municipal board. The chief difference between the two is as regards their constitution. While the Municipalities are created by the State laws, the Cantonment Boards are constituted under central legislation. Recently their organisation has been considerably democratised and elected members are now chosen on the basis of adult franchise ; moreover, such boards contain a number of army officials.

SOME NOTABLE URBAN BODIES

A Port Trust is created to manage the ports like Calcutta, Bombay and Madras. Its constitution is also based on central legislation, and it consists of some members nominated by the Government and the rest elected by corporations and chambers of commerce, etc. Its chairman is an official, and its important functions are : to manage the affairs of the port, to look after its protection, to build docks and godowns, to provide facilities for loading and unloading of goods and amenities for the travellers.

An improvement Trust is created in large cities in addition to the municipal body. Its functions differ from those of a municipality ;

¹M. Bhattacharya, *Management of Urban Government of India*, pp. 2-10.

and these may include : (1) to widen the existing streets and roads and construct new ones ; (2) to build houses for the labourers and the poor people ; (3) to provide parks, playgrounds ; and (4) to provide for broad streets and open houses particularly in thickly populated portions of the city. The U.P. Government has now created development authority in big cities of the State.

Notified and Town Area Committees. In towns with less than 10,000 inhabitants there are the notified committees for big towns and town area committees for small towns. The size of these committees is smaller and the scope of their functions and powers decreases as we go down the various levels of these bodies. The committees are constituted in almost the same manner as the municipalities.

Corporations in Kaval Towns. Under the U.P. Nagar Mahapalika Act, 1958, Corporations (Mahapalkas) have been established in the cities of Kanpur, Allahabad, Varanasi, Agra and Lucknow. The Corporation authorities include : (a) Mahapalikea, (b) Executive Committee of the Mahapalika, (c) Development Committee, (d) Chief Executive Officer, and (e) Separate Committees for Electricity, Transport and other Public Services. The chief of the Mahapalika is known as Mayor (Nagar Pramukh). Each Corporation consists of members (sabhasad) and aldermen (vishshita-sadasya), the number of the former is fixed by the State Government and the number of the latter is to be 1/9th of the former. The members are chosen by voters in the different wards and they elect the aldermen. Seats have been reserved for Scheduled Castes in proportion to their population. The Mayor is a resident of the city and should be above 30 years. He is elected annually ; and there is also a provision for an elected deputy mayor.

The Executive Committee of the Corporation consists of (i) Deputy Mayor, who is also its ex-officio chairman, and (ii) twelve members elected by the members and the aldermen. Half of its members retire annually. The Development Committee consists of (a) Deputy Mayor, as ex-officio chairman, (b) 10 members elected by the members and aldermen, and (c) two co-opted members. The term of the Corporation has been fixed at 5 years. Their functions are as wide as those of corporations in other large cities. The Corporation can devise schemes and implement them for the improvement of the city, for example, (i) general improvement ; (ii) slum clearance and rebuilding, (iii) housing, (iv) roads, (v) housing accommodation, and (vi) city expansion. Corporation's powers of taxation are : (a) property, (b) boats and vehicles, (c) animals used for conveyance or transport,

(d) octroi, (e) professions and trades, (f) dogs, (g) transfer of immovable property situated in the city, (h) advertisements other than those contained in newspapers, (i) theatre ; and (j) betterment tax (tax to be charged on the increase in the value of land in a scheme put into operation or on the increase in the value of any land adjacent to and within one-quarter of a mile of the boundaries of such a scheme).

The 1974 Act provides for three bodies charged with carrying out the provisions of the Act. These are : (i) A council, (ii) A chairman, and (iii) A commissioner. The council consists of (a) elected councillors, (b) ex-officio members, and (c) reserved seats, if any. The number of elected members ranges from 20 to 50 in proportion with the population. A member of the Legislative Assembly becomes member of one municipal council only even if more than one council are comprised within his constituency. Every member of the Legislative Council is also an ex-officio member if his name is included in the electoral roll of a municipality.

In any municipality, the State Government may reserve seats for (i) members of the Scheduled Castes; (ii) members of the Scheduled Tribes ; and (iii) women. The Act has provided for multi-member wards. The chairman is elected from amongst the members of the council. The powers and functions of the council are (1) submission to the Government through the District Collector a report on the administration ; (2) it is obligatory on its part to inform the Zila Parishad about its plan and schemes ; (3) maintenance of public streets, pavements, and drains ; (4) lighting, watering and scavenging; (5) acquisition of immovable property ; (6) making contracts upto the value of Rs. 10,000 ; and (7) power over other branches of administration like water supply, lighting, drainage, building regulations, and vital statistics.

Delhi Corporation. There is a Corporation for the whole of the Union Territory of Delhi. Its most distinctive feature, therefore, is that it includes large portions of rural areas. The Corporation was established in 1953 after the recommendation of the States Reorganisation Commission. It comprises an area of about 500 sq. miles, because it includes about 300 villages in addition to the various urban areas. But some parts of New Delhi, which is the capital of the Union Government, are excluded from its jurisdiction. The Corporation consists of 80 members, at least 20 of whom represent Scheduled Castes. The members are elected from different wards into which the whole area is divided. The members are elected for a term of 4 years;

and the members elect 6 aldermen. The members also elect a mayor, deputy-mayor, a standing committee and certain other committees every year. The Corporation has wide authority, and the Electric Supply Company, Delhi Transport Undertaking, Joint Water and Sewage Board—three important statutory bodies—have also been brought under the control of the Corporation.

The Delhi Municipal Corporation has the following six statutory committees : (1) Standing Committee, (2) Delhi Electric Supply Undertaking, (3) Delhi Transport Undertaking, (4) Delhi Water Supply and Sewage Disposal Committee, (5) Rural Area Committee, and (6) Education Committee. The most important Committee, both from the point of powers and range of functions allotted, is the standing committee of the corporation. It acts as the steering committee exercising executive, supervisory financial and personnel power and functioning to an extent independently of the corporation. It is generally listed one of the municipal authorities under the statute, the other being as the corporation and the municipal commissioner. The committee consists of members varying between seven and sixteen, elected through a system of proportional representation by corporations (and aldermen, if any) from themselves. One-half of the members retire every year but there is no bar against retiring members seeking re-election. The standing committee elects a chairman from its members. It acts in fact as the executive committee of the corporation. It exercises such powers and performs such functions as are conferred upon it by the statute. An important function of the committee is overseeing of the municipal commissioner, and, indeed, the entire municipal administration. The municipal commissioner, generally speaking, reports his actions to the standing committee on a wide variety of matters.

The municipal commissioner has been enjoined to take prior approval of the standing committee on a wide variety of subjects and, in many others, has to report to it. Acting as the necessary link between the corporation and the municipal commissioner, the standing committee, in fact, restricts the influence and effectiveness of both. The corporation, because of its size and, what is more, irregular meetings, leaves to its standing committee the care of various matters and the overseeing of day-to-day civic administration. Although decisions of the standing committee on many subjects need to be approved by the corporation, these, normally speaking, gain its acceptance almost as a matter of course. The Commissioner obviously comes into close contact daily with the members of the standing committee. The standing committee has a tendency to pose as the commissioner's boss. This is

wrong, for the corporation as a whole is his boss. In certain activities the commissioner is sometimes seen working for the committees whereas he should work for the corporation. The municipal commissioner is the chief executive officer of the corporation, indeed its king-pin. He performs all the duties imposed or conferred upon him under the Act and, in times of emergency may take any action he deems necessary. The municipal corporation is the legislative body, laying down policies for the civic governance of the city. The administration of these policies and of the provisions of the statute has been made the responsibility of the commissioner.

The institution of commissioner is based on the philosophy of keeping separate policy-making function from its administration. Secondly, the commissioner is a professional, high-ranking administrator who is appointed by the state (or union) government to administer the city although he gets his salary from the corporation. Thirdly, though the statute does not debar non-governmental personnel from being appointed as commissioners, the state government has been invariably appointing only a serving civil servant to this post. The commissioner has thus been a regular civil servant who is made available to the corporation to administer its affairs. Fourthly, he is appointed for a fixed term ranging from three to five years. Service in the corporation or even in local government is to the commissioner only a sojourn, a spell of time and by no means a part of career in his cadre. And finally, unlike the city manager of the U.S.A. he is a generalist administrator inducted, for a brief period, into local government. Nor can he be regarded as a specialist in city administration. To sum up, the commissioner of the local government in India partakes of the character of a presidential type of government with the significant difference that he is a regular, generalist civil servant.¹

V. Administrative Aspects of Urban Government and Suggestions for Improvement.

Administrative Aspects may be discussed under the following heads :

The Functions. Usually the Municipal Acts in India contain long lists of municipal functions, but in practice the majority of municipal bodies perform only a few positive service functions, e g., public health—including water supply and sanitation, medical relief, vaccination and inoculations, registration of births and deaths—

¹Shriram Maheshwari, *op. cit.*, pp. 184-87.

primary education, public safety and convenience, construction of roads and public works. In addition to these they have some regulatory functions, important ones among which are building regulations, abatement of nuisances, inspection of markets and slaughter houses, and prevention of food adulteration. In general the municipal corporations have more functions than the ordinary municipalities. There are very few instances of milk supply schemes or zoological gardens being run by municipal authorities.

Generally speaking, municipal functions have expanded very little over the years. In actuality there has been a trend towards divesting the municipal bodies of their traditional functions and responsibilities. The debilitating condition of the municipal institutions has become an excuse for the establishment of new urban local institutions like Improvement Trusts, Housing Boards, and Water Supply and Sewerage Boards, and even for taking over the local functions by the State Governments. The threat of still further erosion of municipal functions is coming from the direction of the functional departments of State Governments. The proposed State level water board in Uttar Pradesh is a typical example of the emerging situation. It is the misguided enthusiasm of the State Local Self-Government Engineering Department that has been instrumental in formulating a plan for the take-over of municipal water supply and allied functions by the proposed Water Board. In West Bengal, the medical and health services of municipalities have long been provincialized and recently the State Public Health Engineering Department has made a proposal to divest the municipal bodies of their responsibilities with regard to water supply. Primary education is looked after by the State Government in quite a few States, such as Rajasthan, Kerala, Jammu and Kashmir, and Punjab, and a State take-over is actively being considered in West Bengal. 'Local Government has its basis in the decentralisation of power and functions, but in contemporary India the State Governments are in general reluctant to delegate new functions to the urban local bodies.'¹

Urbanisation is an important aspect of the process of economic and social development and is closely connected with many other problems, such as migration from villages to towns, relative costs of providing economic and social services in towns of varying size, provision of housing for different sections of the population, provision of facilities like water supply, sanitation, transport and power, pattern

¹M. Bhattacharyya, *op. cit.*, pp. 22-24.

of economic development, location and dispersal of industries, civic administration, etc. Much of the deterioration which occurs in living conditions in rapidly growing urban areas is due to the high cost of urban development, in particular, the cost of providing housing, water supply, drainage, transport and other services. The situation is further accentuated by the existence of unemployment, over-crowding and the growth of slums and the fact that a significant proportion of the population in many cities is without shelter.

There are certain minimum directions in which action should be taken ; these are ; (i) control of urban land values through public acquisition of land by appropriate fiscal policies ; (ii) physical planning of the use of land and the preparation of master plans ; (iii) defining tolerable minimum standards for housing and other services to be provided ; and (iv) strengthening of municipal administrations for undertaking new development responsibilities. After a good deal of deliberation, the conclusion was reached that the lowest grade municipal body must provide the following minimum facilities : (a) potable water supply ; (b) street lighting, preferably electric ; (c) drainage, at least pucca surface drains ; (d) surfaced roads and streets ; and (e) sanitation, conservancy and arrangements for the disposal of town refuse and prevention of epidemics.¹

The Finances. The State grant to municipalities which is used as a developmental aid in countries like England, has remained in India as low as less than 15 per cent of municipal revenue. After independence, local self-government naturally expected a patronage within the framework of national democracy ; but municipal finances present a dismal picture of continued stagnation. This is particularly alarming in view of the fact that the national five-year plans have been launched to achieve accelerated economic development. It seems that the plans have had little impact on the finances of municipal bodies. Revenue studies have shown that the municipal authorities find it increasingly difficult to plug the gap between resources and expenditure and, in consequence, the standards of municipal services have been consistently going down.

Wherever property tax is the mainstay of municipal revenue, the procedure for assessment and valuation of property for the purpose of imposition of the tax has frequently and rightly been criticised on the ground that there is under-assessment owing to the interference

¹See M. Venkatarangaiya and M. Bhattacharya, *Local Government in India : Select Readings*, pp. 406-13.

of elected representatives. But since the inauguration of the national Five-Year Plans funds have filtered down to the municipal bodies via the State Governments ; for instance, under the National Water Supply and Sanitation Scheme cent per cent loan assistance is given for municipal water supply projects ; for sewerage projects 75 per cent subsidy is contributed equally by the Centre and the State Governments. Other important Plan schemes under which the municipal bodies have obtained funds are the Slum Clearance and Improvement Scheme, and the subsidised Housing Scheme.

Augmentation of Resources : Zacharia Committee. Hereunder follows the summary of the main recommendations made by the Rafiq Zacharia Committee on augmentation of financial resources of Urban Local Bodies (1963) : (1) All schemes pertaining to urban development should be brought together and executed in a co-ordinated manner within the framework of a master plan for comprehensive development. Every master plan should be translated into a master programme consisting of a number of specific schemes and each local body should prepare five-year City Development Programmes in accordance with which the various schemes in order of priority would be executed. (2) A statutory Urban Development Board should be set up in each State, which should be empowered to acquire lands and properties wherever necessary and undertake most aspects of town development. (3) Licensing system should be made more efficient and more comprehensive. (4) Urban local bodies should be encouraged to take up remunerative activities which would create permanent assets yielding perennial non-tax income. As far as possible these remunerative activities should be financed out of a revenue fund.

Provincialisation of Municipal Services. The demand for provincialisation of municipal services in India has been made from time to time and from many quarters. The first Conference of Local Self-Government Ministers held in August 1948 adopted the following resolution : 'In view of the fact that provincial cadre will facilitate recruitment of suitable personnel from a wide field and provide a more efficient and competent service, this Conference is of the opinion that there should be provincial cadre for the higher executive and technical staff employed by local bodies.' The same principle was reiterated in the Second Conference in 1954. The meeting of the Central Council of Local Self-Government held in 1960 also adopted a similar resolution. These proposals were also supported by the All India Council of Mayors and the Conference of Municipal Corporations at their meetings. The Fourth Conference of Ministers of Town and

Country Planning held in 1963 adopted the following resolution : 'The Conference having considered the need for improving the efficiency and standard of municipal services reiterates its recommendations to all State Governments to provincialize administrative, health, emergency and town planning services of municipalities in the interest of better and more efficient administration.' Very recently the Rural Urban Relationship Committee has not only recommended the provincialisation of certain categories of municipal personnel but also laid down broad principles which may be followed by the State Government in achieving its objectives.

IMPROVING URBAN GOVERNMENT

The Fifth plan identified the following broad objectives : (i) to augment civic services in urban centres in order to make them fit for a reasonable level of living ; (ii) to try to deal with the problems of metropolitan cities on a more comprehensive and regional basis ; (iii) to develop the smaller towns and new urban centres to ease the pressure of urbanization on the larger metropolitan centres ; (iv) to conceive and push through projects of national importance such as those relating to metropolitan areas or inter-state projects. It also underlined the need for a multi-faceted strategy to tackle the complex problems of urbanisation. To cite a few instances, for a more desirable and balanced spatial distribution of economic activity, appropriate measures have to be adopted to attract industries to new urban centres. At the other end, certain disincentives have to be created to prevent the cityward movement of population.

The latest thinking on the subject is contained in the national urbanization policy resolution 1975, prepared by the town and country planning organisation of the Government of India. The major objectives of national urbanisation policy have been identified as follows : (a) Evolving a special pattern of economic development and location of a hierarchy of human settlements consistent with the exploitation of natural and human resources of the region, and ensuring functional linkages *interse* ; (b) Securing optimum distribution of population between rural and urban settlements within each region and also among the towns of various sizes ; (c) Securing distribution of economic activities in small and medium size towns and in new growth centres in order to achieve maximum economic growth for the future ; (d) Controlling and where necessary arresting the further growth of metropolitan cities by dispersal of economic activi-

ties ; legislative measures and establishment of new counter-magnets in the region : and (e) providing minimum level of services for improving the quality of life in rural and urban areas and reducing gradually the difference between rural and urban living.

Within the above framework, the different urban centres have been classified in the following way : (i) Metropolitan cities with a population of 1 million and above; (ii) Class I cities with a population of 1,00,000 to 1 million, (iii) Medium size towns with a population of 50,000 to 1,00,000 ; and (iv) Small towns with a population of 5,000 to 50,000. With a view to guiding future urban growth along desirable lines, action programmes have been suggested in respect of the foregoing types of urban centres. For example, in the first category, the fast expanding metropolitan cities have to be subjected to proper planning and development to guard against unregulated urban growth in future.

Suggestions for Improvement. A number of suggestions put forward by different persons for the improvement of local self-governing bodies in the cities may briefly be discussed here :

(1) Some thinkers suggest that elections to urban bodies should be held on non-party basis. But there are those who believe that elections are an essential feature of democratic institutions and parties must crop up as a result of elections. Ashoka Mehta Committee has favoured this view. However, the suggestion may be tried in selected places, and if found practicable the experiment may be extended to other places. (2) Since the elected councillors take a very active interest in the recruitment, promotion, demotion, etc. of the employees the result is that due to favouritism even incompetent staff is employed. Moreover, most of the members are corrupt and irresponsible and interfere with the work of the administrative staff. It has, therefore, been suggested that the work of administration must be left to an executive officer in a small city and to a commissioner in a big corporation. Moreover, the State Government should prescribe minimum qualifications for appointment of most of the staff and some of the important services, e.g., those of executive officers or secretaries, education superintendents, health officers, engineers, etc. should be controlled and regulated by the State. (3) It is desirable that greater freedom of action be permitted to various bodies than what they are allowed at the present ; but at the same time powers of State control and supervision over the local bodies should be strictly exercised, and, if necessary, bodies which misuse their powers and fail to respond to advice and warning from the government may

be superseded and administrators appointed to carry on their functions. (4) In order that municipal boards may provide better services and greater amenities to the inhabitants it is necessary that amendments to the statutes for permitting greater scope of activity should be made and ways and means should be devised to increase their financial resources. (5) The growth of the revenues of local bodies has been slow as compared to the increased functions expected to be performed by them. Property taxes (including house-tax and service charges for water, lighting and conservancy) continue to be the mainstay of city corporations and municipalities ; octroi and terminal taxes are also an important source of municipal income in some states. (6) The voters should return suitable candidates, who have a record of public service to their credit. Considerations of caste, religion, community or mohalla should not weigh with them. Charges of corruption and favouritism against councillors should be properly investigated and if established they should be removed from membership and should also be disqualified for a number of years. (7) It is desirable to have some authority which should coordinate the programmes and policies of different municipal bodies particularly in the field of those activities which cannot be performed satisfactorily by individual bodies. Every State Government should establish fully equipped town planning departments, which should help local bodies in preparing and implementing their plans for town improvement.

Most important of all the suggestions is that which aims at improving city government through citizens' active participation in the work of local bodies. This can be achieved in these ways : (a) To set up a Brains Trust of citizens who would objectively advise the Chief Executive Officer. (b) Setting up an adequate machinery to analyse the complaints of the citizens and set things right as soon as possible. (c) There should be public relations officers. (d) In order to educate the public on civil affairs they should secure the active help of the newspapers and wherever finances permit they should publish their own weeklies or monthlies dealing with local affairs and problems. (e) Ward and Mohalla Committees should be set up to promote greater interest in municipal affairs and help in removing public indifference.¹

A possible course sometimes adopted to deal with the question of growing metropolitan areas or town groups is the extension of the boundaries of the main city and annexation of potential urban

¹*Report on Improving City Government, I.J.P.A., 26 April 1959.*

areas under a single municipal authority. Some of the cities in India have adopted this course, for example, Delhi, Poona, Kanpur corporations, etc. Even where large areas and population in excess of about half a million have been brought together under a centralised municipal authority, it has become necessary to consider measures of decentralisation not only to ensure the effective performance of services and maintenance of municipal amenities but to overcome the distance between the citizen and the administration. The only sensible solution for such large urban areas is a two-tier system by bringing together existing units of local government under a common metropolitan council or a federation of local bodies with area wide functions that would otherwise remain unattended, such as planning, plan enforcement, development of water supply, sewerage, electricity, trunk roads, etc. In the case of very large central cities, it may be necessary to introduce a measure of decentralisation entrusting local powers to lower tier units, but the metropolitan organisation would be the corporate authority with the requisite financial powers and serving as the link between the local bodies and both of centralisation and decentralisation with a proper distribution of functions.¹

The Nature of State Control over Urban Local Bodies. The nature of control exercised by the District Magistrate is not uniform for all urban local bodies. There are in the country today 25 municipal corporations, about 1,500 municipalities, 164 Notified and 327 Town Area Committees. Town Areas are virtually entirely the charge and responsibility of the District Magistrate and he exercises extensive control over their administrative and financial working often through his Sub-Divisional Officers. The Town Areas do not even have the independence enjoyed by Panchayats. In the matter of taxes, budget and expenditure on works, staff, etc. they depend entirely on the district administration. At the other end are the corporations with elaborate administrative and technical machinery and the executive powers vested in the Municipal Commissioner, who is generally (and particularly in the major corporation), a very senior officer of the government.

Outside the corporation cities, the District Magistrate exercises wide powers in respect of municipalities by statute or by delegation and as principal adviser to the Commissioner or State Government in all matters requiring a decision by the respective authorities. There

¹G. Prakash, 'Organising City Government', I.J.P.A., July-Sep. 1968, pp. 509-12.

are some variations in different States; but, by and large, the ultimate position in all States is practically the same. Most Municipal Acts to the present day vest the Collector and District Magistrate with the power to inspect any property, works or institutions under the management and control of the municipality, to call for and inspect any records and documents and to obtain any information, return, statement, account or report on the working of the municipality. He can require the municipality to take into consideration any objections or remarks that he may make in this regard. Often he has the power to hear appeals against decisions of the board or executive officers in respect of grant of licences, regulation of trades and markets, assessment of taxes and other appeals including those in disciplinary matters.

As the channel of correspondence between the municipalities and the Commissioner and/or the Government, the District Magistrate has vast opportunities of influencing the working of the urban local bodies. His comments and recommendations on a host of matters such as the constitution of municipalities and changes in their boundaries, municipal byelaws, imposition of taxes and alteration in the existing rates, rules, the annual budget, grant and loans, appointments requiring confirmation or sanction of State Government, etc., carry great weight with the Government. In the event of any action to remove the member or chairman or the dissolution, suspension or supersession of the municipal council for abuse of power or persistent neglect of duty, the burden of making inquiries, obtaining explanation of the municipal body and ultimately of administering these superseded municipalities falls generally on the District Magistrate.

Much of the control exercised by the District Officer or the State Government is inherent in the manner in which the urban local bodies developed during the last hundred years. They are not the product of a spontaneous development from below, but of gradual and cautious transfer of functions and powers from above with all the 'safeguards' in reserve, so that the District Officer could keep a watchful eye on their working and the State Government could take over the administration in the event of gross financial management, negligence and default. In the absence of any positive policy for the strengthening of municipal administration to equip them for the new tasks of planning and development, the municipal bodies in the country continue to suffer from serious financial difficulties. They lack appropriate, qualified and competent personnel and no attempts have been made to build up a sound administrative machinery.

Centralization of powers in the hands of the State Governments and the consequent decline of urban local self-government will be the most significant development in the near future. Whatever change will take place in the sphere of municipal government, that will be under the burgeoning control of the State governments. Improvement in municipal finances through the gradual expansion of the grants system and the integration of city development plans with the State and national plans are distinct possibilities. As provincialisation of municipal services gets going, the municipal bodies will have more and more qualified staff which is bound to lead to improved performance of municipal duties and responsibilities. But municipal efficiency will be achieved at the cost of municipal self-government. By exercising control over the key municipal personnel, the State Governments will come to have an important say in the internal management of the urban local bodies. In the foreseeable future, the municipal bodies will be sought to be developed under the watchful eyes of the State Government as on-going concerns with qualified staff and moderately efficient administration. The 'service' aspect, as distinct from the 'self-government' aspect, is expected to get more and more prominence in the years to come.¹

The State Governments can play their role effectively only if they have a proper machinery to supervise, advise and guide local authorities supported by a regional inspectorate. A well-rained and effective inspectorate is the characteristic feature of control over the local bodies in England, where there are inspectors of local bodies in the fields of education, highways, fire brigades and the like, establishing direct links between the local authorities and the departments of Central Government. The inspection involves the principle that guidance and supervision should be based on the knowledge of local conditions. Contact through inspectors has the outstanding merit of flexibility and manifold adaptability. 'The inspector can see both sides of the case with sympathy and if he is properly selected, represent the situation of the one to the other and correct each other's impression of intentions and motives. This assists in getting things done with the maximum of persuasion, the reduction of coercion, the best adaptation of measure to purpose and the improvement of morale.'²

¹M. Bhattacharya, *op. cit.*, pp. 26-31.

²See M. Venkatarangaiya and M. Bhattacharya, *op. cit.*, pp. 480-81

Economic Planning

I. First Five Plans

The Planning Commission was set up in March 1950. Since then it has drawn up six Five Year Plans. The first three plans were for the period 1951-56, 1956-61 and 1961-66. Then there was an inter-regnum for three years, the fourth Plan commencing on 1 April 1969. Under the *First Five Year Plan*, top priority was placed on agriculture including irrigation and power ; development of key industries (like iron and steel, heavy chemicals, electrical equipment manufacture, etc.) came next ; and social services, in particular the mobilisation of local efforts through community development programme, occupied the third place in the order of priorities.

In the *Second Plan*, the principal objectives were : (a) a sizeable increase in national income so as to raise the level of living in the country ; (b) rapid industrialisation with particular emphasis on the development of basic and heavy industries ; (c) a large expansion of employment opportunities; and (d) reduction of inequalities in income and wealth and more even distribution of economic power.

Third Plan had the following objectives: (i) to secure during the plan period a rise in national income over 5 per cent per annum, the pattern of investment being designed also to sustain this rate of growth during subsequent plan periods ; (ii) to achieve self-sufficiency in food-grains, and increase agricultural production to meet the requirements of industry and exports ; (iii) to expand basic industries like steel, fuel and power and establish machine building capacity, so that the requirements of further industrialisation could be met within a period of 10 years or so mainly from the country's own resources ; (iv) to utilize to the fullest extent possible the man-power resources of the country and to ensure a substantial expansion in employment opportunities ; and (v) to bring about a reduction of inequalities in income and wealth and more even distribution of economic power.

The *Fourth Plan* had the following objectives: (i) In agriculture,

an annual growth rate of not less than 5 per cent, and if possible more should be achieved. (ii) To attain this, the highest priority should be given to the production of fertilizers, insecticides and agricultural implements. (iii) The production of essential consumer goods such as textiles, sugar, drugs, kerosene, paper, etc., should be accelerated. (iv) The production of cement and other building materials should be augmented. (v) In the fields of metals, chemicals, machine-building, mining, electric power and transport industries, the schemes in hand should be completed early and new schemes should be undertaken. (vi) Maximum possible facilities should be provided in the social services sector which should also be suitably reoriented for increasing productivity. (vii) In organising efforts in all these directions, rapid progress towards greater employment and social justice should be promoted.

The *Fifth Plan* beginning on 1 April 1974, envisaged a total outlay of Rs. 53,411 crores to achieve an overall annual growth rate of 5.5 per cent and take the country nearer the declared goals of removal of poverty and self-reliance. The Draft Plan, presented to Parliament in December 1973, provided for a public sector outlay of Rs. 37,250 crores. The share of the private sector was to be Rs. 16,161 crores. The Plan had been drawn up within the framework of a 12-year perspective (1974-75 to 1985-86) and the document incorporated a policy-frame and proposed detailed steps to ensure effective Plan implementation. The Plan envisaged an annual growth rate of 4.67 per cent in agriculture, 8.2 per cent in mining and manufacturing and 7.6 per cent in exports.

Community Development Programme. It may be described as 'people-centred' rather than 'government-centred.' Community Development (CD), conceived as a new approach to administration from a social angle, derives logically from the United Kingdom's policy of guiding dependencies to responsible self-government. The CD Programme, which aims at the individual and collective welfare of India's vast rural population, was launched on 2 October 1952, in 55 selected projects, each project covering an area of about 500 sq. miles with about 300 villages and a population of about 2 lakhs. It is a programme of aided self-help to be planned and implemented by the villagers themselves, the Government offering only technical guidance and financial assistance. Its objectives are to develop self-reliance in the individual and initiative in the village community. The Programme is designed to support this voluntary community effort. It consists of a number of individual schemes each of which falls under

one of the following broad aspects of rural community life : (1) Agriculture, (2) Animal husbandry, (3) Irrigation and reclamation, (4) Health and rural sanitation, (5) Education, (6) Social education (including welfare of women and children), (7) Communications, (8) Rural arts, crafts and industries, and (9) Housing.

II. Sixth Five Year Plan

Janata Government's Approach to Planning. The Prime Minister and the Home Minister, on 25 April 1977, called for a radical change in the approach to planning in the country, shifting emphasis to the more productive and employment-oriented rural programmes. Inaugurating the second seminar on planning and implementation systems, sponsored by the Department of Personnel and Administrative Reforms, they said that the emphasis in the past on large capital-intensive industries and mechanised farms had failed to produce results despite 30 years of planning. The Home Minister went to the extent of calling for statutory safeguards demarcating the spheres of production among the cottage, small-scale and heavy industries to avoid unfair competition between them. About advantages of decentralisation in the industrial sector, it was pointed out that the heavy industry only multiplied the class of capitalists in the country rather than generate additional employment, except among the elitist classes.

The Rolling Plan. The Planning Commission decided to introduce the Rolling Plan concept with effect from 1 April 1978, with a view to ensuring greater flexibility and realism in planning. Under the new concept, a five-year plan was to be formulated as before but it was to be revised every year in the light of the performance of the various sectors of economy and availability of resources. There was thus to be a five-year plan in continuous existence, being reviewed and extended year by year.

Charan Singh's Blue Print for India. Basic to the model are the following perceptions of the Indian economy as seen by the author : (1) India has an abundant supply of labour, but its resources of land and capital are limited. (2) With land as the limiting factor—not labour—the smaller the holding, the more intensive the cultivation and the larger the output per acre. A ceiling and a floor should, therefore, be placed on land-holdings. (3) The current level of poverty is largely due to the high percentage of our labour force being engaged in agriculture. (4) The transition from agricultural to non-agricultural employment can take place only when agricultural

production is maximised and raw materials and funds are made available to the non-agricultural workers in the required measure. (5) A shift from agricultural to non-agricultural operations will need a spirit of enterprise among the farmers. (6) The limited supply of land and the need for enhancing its output calls for the maximum capital investment in land and agriculture and the appropriate use of modern science and technology. (7) The abundant supply of labour and the inadequate availability of capital calls for a maximisation of output per unit of capital rather than per worker, necessitating a labour-intensive and capital-economising technology for the production of non-agricultural goods and services—this means the deliberate promotion of cottage and small-scale industries. (8) To stop the drift of rural unemployed to the towns and avoid the costs of consequent increase in urbanisation, non-agricultural employment needs to be provided in rural areas. (9) To the extent that technological considerations necessitate the establishment of units requiring large investments of capital and there is no way of substituting them by labour-intensive technology, they have a place in the economy. (10) The first 30 years of Independence have seen the growth of capital-investment industries and imported capital-intensive technology, a large inflow of foreign capital, a widening disparity of incomes and wealth, growth of monopolies and big business houses, a decline of cottage and village industries, an increase in unemployment and a deterioration of rural conditions of life and amenities as compared to the urban areas.

Based on these perceptions, the author has built a model for economic growth that is geared to the maximisation of productive employment and economic self-reliance. This is to be achieved by the following means : increasing output per acre as much as possible with small holdings and large capital investments in land and agriculture ; industrialisation for increased employment per unit of capital; enhancing the proportion of workers in non-agricultural occupations through employing as many labourers as possible and through capital-economising technology reconciling economic growth with social justice by the promotion and extension of the small unit in both the agricultural and non-agricultural areas ; and curbing and reducing big units.

The basic assumption regarding substitutability of capital by labour is too simplistic. While it may be possible technically to substitute labour with capital in the production of a given commodity, the commodity itself has not only a functional attribute but also others such as appearance, durability, quality and acceptability. A great deal of research is needed to identify the constraints this

imposes on technical substitutability. The answer may lie in an appropriate mix of capital-intensive and labour-intensive technology rather than in the replacement of capital-intensive by labour-intensive technology. This does not find mention in the model. Again, while the model refers to the need for changes in attitudes and a spirit of enterprise in farmers to facilitate a shift from agricultural to non-agricultural occupations after the emergence of an agricultural surplus, it does not refer to the changes in attitudes that will be needed to induce a shift in consumer preference from machine-made to hand-made products, especially in the context of current product-mix in our industrial and tertiary sectors.¹

The Draft Sixth Plan. The Plan document released in a summary form on 20 March 1978 showed that the Planning Commission laid the following four conditions for making the Plan a success : (1) a national consensus on the Plan ; (2) raising and deploying all resources and devote all energies to the fulfilment of objectives ; (3) a degree of restraint on the part of the community on expansion of its current consumption for the sake of future ; and (4) vitally enthusiastic participation of the people. The Draft Plan presented to the National Development Council proposed a total outlay of Rs. 1,16,240 crores, of which the outlay in the public sector was to be Rs. 69,380 crores ; a rate of growth of 4.7 per cent and expected that a potential for 5.5 per cent growth would be built up by the end of the period. The major thrust in this Plan was to be on achieving substantial progress towards the aims of full employment, eradication of poverty and the creation of a more equal society. The principal objectives of planning were, therefore, defined as achieving within a period of ten years : (i) the removal of unemployment and significant under-employment ; (ii) an appreciable rise in the standard of living of the poorest sections of the population ; and (iii) provision by the state of some of the basic needs of the people in these income groups. The National Development Council in March 1978 approved the objectives of removal of unemployment, reduction of poverty and inequalities and continued progress towards self-reliance and generally welcomed the proposals in the draft plan in furtherance of these objectives. The draft was later revised on the basis of detailed discussions with the State Governments.

Development Perspective 1979-80 to 1974-95. The Sixth Plan

¹Charan Singh's 'India's Economic Policy, The Gandhian Blueprint', examined by V.K.R.V. Rao, Illustrated Weekly, 1 Jan. 1978, pp. 18-9.

has been formulated against the background of a perspective covering a period of 15 years from 1980-81 to 1994-95. This development perspective visualises accelerated progress towards the removal of poverty, generation of gainful employment and technological and economic self-reliance. The Plan envisages the long-term goal of reducing the Net Production Rate to unity by 1995 for the country as a whole. Economic development during the last nearly three decades has led to a perceptible increase in the per capita income which rose from Rs. 466 in 1950-51 to Rs. 730 in 1978-79 at 1970 prices. In spite of this, the incidence of poverty in the country is high. The reduction of poverty should, therefore, receive the highest priority in our development strategy. A substantial reduction in poverty can be achieved only if there is a determined effort at a significant redistribution of income and consumption, so that the percentage of population below the poverty line reduces to 30 in 1984-85 and to less than 10 by 1994-95.¹

The rural development programme during the Plan period will cover all the blocks of the country so that every block can develop its potential for growth according to the genius and efforts of the people and the resources of the block. Organisation of relevant services which would help small and marginal farmers and sharecroppers to derive economic benefits from new technology and diversification of farm income through mixed farming, agro-industries and small-scale industries are two of the major thrusts of the agricultural Plan. Next to agriculture, the small and village industries sector provides the major avenue of employment in rural and semi-urban areas. This sector in particular will provide opportunities for group self-employment and for home employment for women and hence will be vital for improving the income of families without land and/or livestock assets. Since special Central assistance has been introduced for Scheduled Castes, for the first time, concerted efforts will be needed for preparing worthwhile projects. The organisational framework of anti-poverty programme calls for careful planning on the basis of the socio-cultural and socio-economic features of each area. Apart from decentralisation of the administrative machinery at the local level, it will be necessary to ensure that at every stage of planning and implementation there is full participation and involvement of the people.²

¹*Sixth Five-Year Plan*, pp. 17-21.

²*Sixth Five-Year Plan*, pp. 89-63.

There was nothing new in the prescription suggested by the planning minister for the success of the plan. No one will argue with his circuitous contention that projects cannot be completed on time within the specified resources unless the price line and inflation are held in check, and that speedy implementation of plan programmes was essential for maintaining price stability. But his claim that the recent economic policy decisions taken by the Government would achieve these twin objectives is not convincing. Indeed, the measures taken so far have only succeeded in hurting the common man while no dent has been made on the parallel economy which has become a major contributory factor in the inflationary situation. It is also hard to believe that progress in infra-structural areas like power, cement and the railways is satisfactory, as claimed by the planning minister.¹

III. Machinery for Planning

The Planning Commission. In the machinery and procedure for planning, the Planning Commission naturally occupies the most important position, but it has neither constitutional nor even statutory authority. It is only when the Plan formulated by the Commission is approved by the Cabinet that it receives the necessary sanction. The Planning Commission is essentially a staff agency, its main functions being advisory and co-ordinating rather than executive. Free from day-to-day administrative and executive work, the Planning Commission is in a position to devote itself almost entirely to the formulation of the Plan and evaluation of the progress achieved in the execution of each stage of the Plan. At the same time, its composition and status in the Government are such that it is in a position to maintain an effective liaison with the Central Ministries and the Government of the States.

Since its inception, the Prime Minister of India has been the Chairman of the Planning Commission. The day-to-day work of the Commission was looked after by a Deputy Chairman. The other members of the Commission were Union Ministers of Finance and Defence and four full-time members who had the rank of Ministers. The Minister for Finance was the member in-charge of finance in the Commission in ex-officio capacity. The Honorary Statistical Adviser to the Government also served as a *de facto* member of the Planning Commission. The Deputy Chairman in his capacity as Minister for Planning was assisted in his work in Parliament by two Deputy

¹'Plan Promises,' Indian Express, 14 Sept. 1981.

Ministers. The Secretary to the Cabinet was also ex-officio Secretary to the Planning Commission.

The ARC recommended that the Prime Minister should be closely associated with the working of the Commission without being the Chairman thereof. This association could be secured by his/her being kept continuously informed of the matters coming up for discussion at the meetings of the Commission. The Prime Minister may also attend the meetings of the Commission or address it whenever he/she considers it necessary. The Prime Minister will preside over the meetings of the Commission when he attends them. The Finance Minister should also be closely associated with the working of the Commission, but without being a member of the Commission. Other members of the Commissions should be experts.

Functions of the Planning Commission. The Planning Commission was allocated the following functions since the beginning : (i) Assessment of the material, capital and human resources of the country, including technical personnel, and formulation of proposals for augmenting such of the resources as are found to be deficient. (ii) Formulation of Plans for the most effective and balanced utilisation of the country's resources. (iii) Definition of stages in which the Plan should be carried out through a determination of priorities and allocation of resources for completion of each stage. (iv) Determination of the nature of the machinery necessary for implementation of the Plan in all its aspects. (v) Appraisal from time to time of the progress achieved in the execution of each stage of the Plan. (vi) Public cooperation in national development. (vii) Perspective planning.

The Planning Commission is concerned broadly with technical questions relating to planning and the planning organisation itself. The policy and details of specific schemes included in the Plan are matters to be dealt with by the Central Administrative Ministries and State Governments. The ARC in its interim report on Machinery for Planning said : 'The statement of the functions of the Planning Commission set out in the Government of India Resolution dated 15 March 1950 appointing the Commission should, with slight modifications, continue to be the basis of its working. Its role should be confined to the formulation of the plans—the long-term perspective plan, the five-year plan, the annual plan and the evaluation of plan performance. It should cease to involve itself in executive functions and decisions.'

The National Development Council. The National Development Council is not a deliberative body, which could go deeply into the issues involved but only a high-level body to broadly approve or modify the Plan, particularly the outlays proposed and targets for economic growth. Moreover, since the National Development Council is not a constitutional authority, its effectiveness and actual role are based on general understanding and conventions. The ARC defined the functions of the Council and suggested the inclusion of Cabinet Ministers in charge of important portfolios. It recommended that the Prime Minister should continue to be the Chairman and that the Secretary of the Planning Commission should continue to be the Secretary. It also suggested the formation of sub-committees of the Council to deal with particular matters. The Government of India considered the recommendations of the ARC, reconstituted the National Development Council and redefined its functions as follows in a Resolution dated 7 October 1967.

The functions of the National Development Council are : (i) To prescribe guidelines for the formulation of the national Plan, including the assessment of resources for the Plan; (ii) to consider the national Plan as formulated by the Planning Commission; (iii) to consider important questions of social and economic policy affecting national development; and (iv) to review the working of the Plan from time to time and to recommend such measures as are necessary for achieving the aims and targets set out in the National Plan, including measures to secure the active participation and cooperation of the people, improve the efficiency of the administrative service, ensure the fullest development of the less advanced regions and sections of the community and through sacrifice borne equally by all citizens, build up resources for national development.

Liaison with the States in the field of planning is maintained through the Programme Advisers appointed by the planning Commission. The Programme Advisers assist the Commission in making an assessment of the implementation of various development programmes and advise it on the proposals put up by different State Governments. The Programme Advisers study at first-hand the working of the various development schemes, giving greater attention to the more important projects and the projects in which the Central Government provides specific assistance, financial or otherwise. The main functions of the Planning Commission are carried out in a number of technical Divisions. These Divisions scrutinise and analyse various schemes and projects incorporated in the plan, conduct tech-

nical studies and research on plan projects and programmes, prepare study material and reports on the Plan and follow up the progress of the plan projects.

Planning Machinery in the State. To spell out the functions of State Planning Boards the ARC recommended : (a) to make an assessment of the State resources and formulate plans for the most effective and balanced utilization of those resources; (b) to determine plan priorities of the State within the framework of the priorities of the National Plan; (c) to assist district authorities in formulating their development plans within the spheres in which such planning is considered useful and feasible and to coordinate these plans with the State Plan; (d) to identify factors which tend to retard economic and social development of the State and determine conditions to be established for successful execution of the plans; and (e) to review the progress of implementation of the plan and take measures as the review may indicate.

Planning at district and village levels was looked upon as an essential means of securing the maximum public participation and voluntary effort; but in practice, however, attempts at district and village planning have generally not been fruitful. However, the ARC does not consider that any elaborate machinery for planning in a district is necessary. At the operational level, planning cannot be divorced from implementation. A *District Plan* would necessarily have to be in the nature of identifying the particular potentialities of development of the district, an assessment of its crucial needs and formulating of specific measures to exploit the local resources and meet the local needs. The best arrangement, therefore, would be that the same set of persons who are responsible for implementation are also made responsible for planning. Therefore, the work relating to planning at the district level should be handled by the development set-up in the district.

IV. Implementaion of Plans

Actual Implementation of Various Plans. The First Plan was a success in as much as the modest targets set by it were achieved. The success of the Plan was partly due to the good monsoons and partly to the existence of an economic climate which encouraged industrialists to make use of their full capacity for the production. It created the feeling, both in the country and abroad, that a decisive break had been made with the stagnant economy of preceding years and that India, with the help of a fairly modest quantum of foreign aid, could

really make progress. The Second Plan was conceived against the background of a more rapid advance towards a socialist society. It witnessed a considerable expansion of the public sector and a more positive use of the entire apparatus of controls at the disposal of government. The general index of industrial production had risen from 139 in 1955-56 (base year 1950-51) to 194 in 1960-61 while that of machine production had soared from 194 to 503.¹

The report on the progress of the Third Plan during 1961-62 to 1963-64 highlighted the fact that the rate of growth of the economy and the increase in employment had been slow in the first half of the Plan period. While performance in some sectors like transport, power and education had been in accordance with the Plan or ahead of schedule, targets in some fields, such as machine tools, aluminium, cloth, coal, steel, iron ore, cement, fertilisers, irrigation, cotton, oil-seeds and foodgrains could not be achieved. According to many critics the Third Plan was a failure. It is true that, during this period, India was subjected twice to external aggression—the Chinese aggression of October-November 1962 and the Indo-Pak conflict of 1965—and these completely upset both her plans and her economy, but even apart from these two unfortunate events, there were built-in weaknesses in the Plan itself. The Third Plan ended on 31 March 1966. Then there was a Plan holiday for three years. The Fourth Plan officially started on 1 April 1969, but it was not finalised until March 1970. The administrative burden on account of nationalisation was hinted at by Paul H. Appleby in his first Report. He observed: 'A rather fundamental choice must be faced between welfare objectives and doctrinaire nationalisation. The latter will deflect energies from welfare, will vastly overburden the Government's administrative capacity and will concentrate the problem of capital needs and lay those needs exclusively in the lap of Government. Inefficiency results not only in the waste of public capital and retardation of development but also in the growth of corruption.'

It has been very aptly remarked that Indians are very good planners but bad executors. This fact may very well be supported by the objectives and tasks embodied in the Five-Year Plans and the comparative lack of planning for implementation. The Third Plan did move a little towards a better understanding of the problem of plan implementation as a multi-level process and it recognised that 'there has to be cooperation between different agencies and an understand-

¹Nabagopal Das, *Indian Economy under Planning*, pp. 18-19.

ing of the purposes of the Plan and the means through which these are to be secured.' It also recognised the need for effective communication and the existence of special problems regarding the private sector along with those of its vast unorganised segment. Then it added: 'By its very nature, a plan of development necessarily involves the setting of targets and subsequent appraisal of fulfilment. Targets may provide useful indicators of progress, and may make for concentrated effort, but equally important are the specific measures and policies needed to realise them and their sustained implementation. This indicated something which may be called 'planning of plan implementation.'

The International Labour Organisation calculated that whereas the number of jobless in India in 1970 was 3.7 million, it was 13.8 million in 1979. Between January 1980 and January 1981, 17.62 lakh registered with the employment exchanges, bringing the total of registered unemployed to 1.62 crore. 'There must indeed be something fundamentally wrong with the approach to planned development if at the end of every five-year plan we end up with more unemployed than before. Our ever increasing population remains an important factor ; but the responsibility of failure to employ gainfully the available labour force rests squarely in the Planning Commission's compound. A few worthwhile schemes like the Food-for-Work scheme have needlessly been allowed to become victims of ideological speculation. The national planners have consistently failed to devise effective schemes that could tap our tremendous reserve of human beings. Instead our industrial culture seems to be unwittingly moving towards automation, producing the anomaly of a dearth of semi-skilled labour along with swelling the ranks of the unemployed.'¹

'This cannot go on for very long. Indeed the over-all situation of drift being what it is, even a temporary upswing in the economy cannot be much of a comfort to the public. In the past every upswing has been followed by a downswing, keeping the rate of growth where it has been, just enough to take care of the increase in the population and leaving very little with which to ensure even a modest increase in the average consumption. Whatever other constraints the planning process in the country may labour under, there is no political compulsion in refusing to set targets for cost efficiency. At the very least such targets will provide new criteria for judging the success or failure of various projects. At best they can even act as a disincentive to

¹'Jobless Millions', *Hindustan Times*, 11 Sept. 1981.

indifferent planning and bureaucratic delays.’¹

‘The role of people in implementation of plan policies and programmes must not be underestimated. Development planning, which embraces implementation of plan programmes, involves not only the preparation of a compendium of projected public and private decision-making covering the relevant aspects of production, consumption, savings and investment but a change from old patterns to new modes of behaviour and new techniques of production. This is possible only with the active participation of the people as well as the acceptance of the new modes by them. Social awareness and acceptance of the various programmes is, thus, as important an element as their economic viability.’²

V. Critical Observations.

Prof. P.R. Brahmanada of Bombay University in his presidential address to the 60th Annual Conference of the Indian Economic Association on 28 December 1977 divided the period of planning into two halves 1950-63 and 1963-76. He analysed the following growth trends : (i) National income grew at the rate of 3.4 per cent per annum during the period 1950-76, but the growth rate during the first period was higher (3.8 per cent) and it declined to 2.9 per cent during the second period. (ii) Population increased at the rate of 2 per cent per annum during 1950-63 and by 3.2 per cent during 1963-76. Work force increase was also faster during the second period. (iii) Employability index grew at an annual rate of 2.9 per cent during 1950-63, but in the second period (1963-76) it declined to 1.9 per cent. Consequently, the gulf between growth rate in work force and its employability has widened in recent years. This has posed a serious threat to our social stability. (iv) During 1950-63, growth rate of saving was less than the growth rate of investment. The gap was filled by inflow of foreign aid and foreign capital. However, the situation changed in the second period (1963-76) in which growth rate of saving has been higher than that of investment. (v) During the first period the growth rate of wholesale prices was 1.9 per cent per annum. But the working class cost of living index moved at a slightly faster rate of 2.4 per cent per annum. (vi) During the entire period government expenditure has been rising at a slower rate than taxes. (vii) There has been structural

¹Shamlal, ‘*The National Scene : Where Slovenliness Is all*’, Times of India, 7 Nov. 1981.

²See P.P. Agarwal, ‘*Some Aspects of Plan Implementation*’ I.J.P.A., January-March 1973, pp. 17-24.

retrogression in the Indian economy since mid-sixties.¹

Public Sector. The general considerations prompting the government to establish public enterprises in the country, viewed against their performance over two decades, reveal that the gap between aim and achievement is sufficiently wide. These original considerations aimed at continuous increase in production, most productive use of human and physical resources, social ownership of the means of production, the State becoming a model employer, better consumer service and surpluses. Against these the country faces considerable idle capacity, wastage of resources, strikes, delays, high prices, poor quality product and low contribution from public enterprises. It is strange that in a socialistic pattern of society where the means of production in respect of certain key industries are owned by the State, strikes take place. It is alarming that strikes which function as the reverse gear to progress and increased output, are not discouraged by those who are in a position to do so.²

In 1979-80 the latest year for which accounts are available, the public enterprises earned a return on capital employed of 7.5 per cent, together with Rs. 821 crores of investible resources, amounting to 12.5 per cent of the invested capital. After allowing for an expenditure of Rs. 674 crores on the replacement of worn out or obsolete assets, the public sector made a contribution to a new capital formation of Rs. 1,411 crores. On the face of it, this does not look unimpressive. But it is sobering to reflect that this is only a little over half the return, calculated in the same way, that is earned by the private sector. If the public sector had yielded a return of 12 per cent, the target set for it from the fourth plan onwards its total contribution to new capital formation would have been Rs. 800 crores higher. Over the sixth Plan period it would have added Rs. 5,000 crores in 1979-80 prices to the funds available for it, enough to make the difference between implementing the industrial sector of the plan in five years or seven years as is likely today.³

Other Aspects. 'The irony of India's developmental effort is reflected in the latest achievements of our scientific research. India has launched a space satellite even, as earlier it exploded a nuclear device. India is now one of the most advanced countries technologi-

¹Ruddar Datt and Sundharam, *Indian Economy*, pp. 188-95.

²R.B. Jain, *Contemporary Issues in Indian Public Administration*, pp. 235 and 277.

³Prem Shanker Jha, 'Public Sector Economy : I—The Politics of Power', *Times of India*, 15 Feb. 1982.

cally and yet one of the poorest.' Somehow, this glaring contradiction evokes little effort to search for the fundamental causes. The training of our administrators is geared to the management of the advanced sectors. The backward sectors continue to be administered by the lower level public servants who themselves remain backward. The average policeman is a case in point, as is clear from instances of inefficiency and misbehaviour on the part of police. 'Thus, the challenge that forces planning in India is to reverse the social priorities so that the backward and neglected strata of society become the centre of developmental efforts. They have made sacrifices by suffering patiently for the last 30 years while their compatriots forged ahead. The languishing social strata include the lower castes, some minority communities and the poorer classes in general. It is of the utmost importance that they should now have the opportunity to assert their values, activate their knowledge and skills, and articulate and realise their aspirations,'¹

There can be no question that during the last 30 years China has, purely in statistical terms, achieved faster economic progress than India. It is also true that the long shadow of politics has fallen heavily on economic development in both countries. In China, the great leap forward of 1958 and the cultural revolution during the second half of the sixties took a grim toll; by sheer coincidence India, too, was coping as best as it could during the latter period with political problems thrown up by the erosion of central authority by declaring a "plan holiday". And, as luck would have it, the thrust of economic policy in the two countries even today is to avoid the snares of "giganticism", to consolidate rather than to extend and to concentrate on the "weak links"—agriculture, energy, transportation, building materials and the "urgent needs of the people" by way of housing, education and public health. It could be legitimately contended that these similarities are superficial while the differences are fundamental. China is relatively a closed society; India, by contrast, an open book. The Chinese can not only achieve economic wonders—the almost total eradication of flies, sparrows and dogs, for example—through a degree of compulsion but also hide their failures from prying eyes.'²

'The dominant fact of the past three decades is the addition of

¹K.C. Khanna, '*Planning in Old Mould: Neglect of Man Management*', Times of India, 9 Sep. 1980.

²Surinder Suri, '*Pathology of Indian Planning*', Times of India, 15 Sep. 1980.

280 million to the country's population, which stood in 1947 at 340 million. To sustain an increase in numbers of over 80 per cent would be a considerable task under any circumstance. If the share of national income per head has gone up, in 1960-61 prices, only from Rs. 266 in 1950-51 to Rs. 366 in 1975-76, this is to be explained altogether by the population factor. A clearer view of the dimensions of change is obtained from the overall magnitudes bearing on development. 'At the stage of development now reached, two different propositions can be advanced with justice. On the one hand, it is fair to say that, whatever the shortcomings over the past three decades, India has made impressive gains, scarcely matched elsewhere, in the development of natural resources and infra-structure availability of technical and scientific manpower and the apparatus for research and the building up of a system of institutions essential to rapid growth and modernisation. On the other hand, these very gains make us deeply concerned over what remains to be done and the immense problems which must now be urgently resolved.'¹

Achievements of (Plan) Objectives. The objective of raising income/per capita income has in general fallen short of targets. Except for the First Plan the growth rate has been below the targetted rate. This makes the performance unsatisfactory. However, there are two bright aspects of the growth rate. One, considered over the entire period from 1950-51 to 1978-79, the growth rate at 3.5 per cent was higher than the pre-independence period from 1901 to 1966 when it was 1.2. The per capita income growth at 1.3 per cent and an increase of 1.1 per cent in per capita consumption, is a positive achievement against almost a nil gain before independence. Second, the modernisation of economy has taken place during this period. This is evident from a variety of changes in structural and the institutional set-up of the economy.

The economy has achieved a satisfactory rate of domestic saving and investment, although it has been much behind the targetted schedules. As for the objective of self-reliance is concerned, some progress has definitely been made. This is evident from the developments in three dimensions of the objective : (i) in respect of the foreign aid, which in relations to the plan expenditure has fallen from as high as 28.1 per cent in the Second Plan to 8.9 per cent in the Fifth Plan. (ii) There has taken place large import-substitution in

¹Tarlok Sing, '*Planning for Poverty or Prosperity*', Illustrated Weekly, 17 July 1977.

many critical products such as iron and steel, machinery and fertilisers. (iii) There is some noteworthy progress in exports. Over time the growth rate has increased with 17.3 per cent in five years 1973-78 as against much less in the previous plans.

In respect of the employment objective, there is little that has been achieved. In fact some opine that the position has become worse because of the increase in the number of unemployed. Some specially devised employment schemes do provide relief to the very poor, but these are too few to make any substantial impact. In promoting the objective of social justice there is indeed very little that can be said in favour of planning. The poorest have benefited the least as is evident from the very slight increase in their consumption expenditure (for the bottom 30% of households in the rural areas from 13.1 per cent in 1958-59 to 15.0 per cent in 1977-78). As far as the inequalities are concerned, there is again very little to show. The distribution of wealth continues to be highly unequal both in the villages and in the towns.¹

The following achievements of planning during the Congress era can be legitimately listed : (1) Impressive industrialisation in the capital goods sector via leading role of the public sector. (2) Development of economic infra-structure : energy, irrigation and transport. (3) Diversification of exports and import substitution. (4) Rise in life expectancy of the Indian people. (5) Development of a huge educational system. (6) Development of science and technology.

Fundamental failures of planning. These are : (1) Failure to provide a national minimum level of living, (2) Provision of employment to all able-bodied persons. (3) Reduction of inequalities of income and wealth. (4) Reduction of concentration of economic power. (5) Fiscal measures to correct inequalities and unaccounted money. (6) Redistribution of land and quick transition to progressive agriculture. To sum up, whereas the planning process has been able to create social and economic infra-structures which provide an industrial base by fostering the development of heavy and basic industries and enlarge educational opportunities, it failed to provide employment to every able-bodied person, eliminate poverty and bring about institutional reforms leading to reduction in concentration of income and wealth. Moreover, benefits from the economic "infra-structure" have accrued largely to the relatively affluent. Our

¹A.N. Agarwal, *Indian Economy : Problems of Development and Planning*, pp. 728-31.

pattern of investment, particularly in the provision of social infrastructure, has been biased in favour of urban areas....Many segments of the population, like the scheduled castes and tribes, have not shared fully in the benefits of growth.¹

¹Ruddar Datt and Sundharam, *op. cit.*, pp. 196-99.

Political Parties

I. An Attempt at Classification

It is difficult to determine the exact number of parties between 1974 and 1982; however, the available sources of information indicate their number over 200. None of the standard bases of classifying parties—nationalism, political and moral issues, socio-economic class, charismatic or personal leadership, religion, elitism and structure—can possibly be applied to the Indian political parties on account of their multiplicity and variety. The categorization of parties into all-India or national parties and State parties as has been done by the Election Commission has no scientific basis, because the bases of their 'standing and organisation' as recognised by the Commission have been changing. Even otherwise a statewise classification is so fluid that it becomes obsolete the day a party of one State extends its activities to another state.¹

Thus it has been rightly observed: 'Multiplicity and diversity make any attempt to classify Indian political parties a very hazardous undertaking. Nonetheless, bearing in mind these difficulties and limitations, one may be justified in attempting a provisional classification of Indian political parties other than Congress, into (1) parties of the left, (2) parties of the right, (3) traditional parties, (4) regional parties, and (5) minor parties, based on specific and parochial groups and issues.

The ideological-programmatic divide between the various parties in India has become so thin that most of them do not feel at all inhibited in making deals across it. Recent moves by the Congress (U now S) and the AIADMK illustrate this development in the country's political life. By normal standards, a party, which claims to be the true inheritor of the traditions and values of Mahatma Gandhi and Jawaharlal Nehru, could not have entered into an alliance with an organisation

¹S.N. Sadasivan, *Party and Democracy in India*, pp. 9-12.

²Hanson and Douglas, *India's Democracy*, pp. 78-9.

which made no secret of its concern for and dependence on just a group of intermediate castes. But the Congress (U) had no hesitation in doing so.¹ 'It is true that in a predominantly agricultural society the terms "left", "centre" and "right" are not as relevant as in industrial societies. This is shown in the fact that the CPI draws so much of its support from the class of peasant proprietors whereas the SSP combines in its appeal radical social policies with an almost rightist posture on the language issues by its strong advocacy of the cause of Hindi. The fact that the DMK, a regional protest movement whose original platform was based on southern militancy, has nonetheless directed its social appeal along almost socialist lines, is an indication of the complex character of opposition movements in India.'²

Again in practice, modernist traditionalist is close to another distinction that between 'communal' and 'ideological' parties, and on this latter, too, there are difficulties in avoiding the domination of hybrids. The position of the Jana Sangh is delicately intermediate. For the sake of convenience and for purposes of discussion we would, therefore, divide the Indian political parties into the following groups: Centrist—Congress and Janata ; rightist—Jana Sangh, Swatantra and Bhartiya Janata Party ; leftist—socialist and communist parties ; and others—mainly regional and communal.

II. Centrist Parties

The Indian National Congress

It was founded in 1885. Before the attainment of independence, it passed through the following phases : (1) from 1885 to 1905—era of reforms, (2) from 1906 to 1919—era of self-government ; (3) from 1920 to 1929—struggle for swaraj ; (4) from 1930 to 1947—fight for freedom. Upto 1919 the Congress believed as well as worked in accordance with the constitutional methods. It was dominated by the moderates ; and its leaders were educated pleaders, teachers, journalists, and social or political reformers. The well-known split between the moderates and the extremists had occurred in 1907 at Surat, after which the extremists left the Congress. However, the two wings were again united in 1916, the year in which the historic Lucknow Pact between the Congress and Muslim League was made. But the moderates left the Congress for good in 1918 and formed a separate organisation—The Indian Liberal Federation.

¹Girilal Jain '*Thin Ideological Divide*,' Times of India, 31 Oct. 1979.

²Rajni Kothari, *Politics in India*, p. 214.

After the death of Tilak in 1920, the leadership of the Congress fell on Mahatma Gandhi who led the organisation to its final goal of independence. He turned the Congress into a mass organisation and under him it identified itself with the peasants and workers. The Congress carried out its Non-Cooperation Movement in 1921-22, Civil Disobedience (Satyagraha) Movement in 1930-31, 1932-34, 1940-41, 1942-43 under the leadership of Mahatma ji. Congress fought for freedom by all peaceful and legitimate means, believing in non-violence as a policy.

Some of the characteristics of the Congress may briefly be stated here. In the first place, Congress has been national in character; Mahatma Gandhi aptly stressed this point at the Second Round Table Conference in these words: "All other parties at this meeting represent sectional interests. Congress alone claims to represent the whole of India and all interests. It is no communal organisation. It is a determined enemy of communalism in any shape or form." People belonging to different creeds and communities as well as all parts of the country have always been active members of the Congress.

Secondly, in its anxiety to achieve its main goal of political independence, the Congress admitted members who betrayed the widest possible diversity, in their economic and social views and were held together by a temporary bond of opposition to British rule. While such a combination of strange bed-fellows might be a source of strength to the Congress in its political struggle, it proved a fatal flaw in its career as a parliamentary party. It was a collection of almost every conceivable interest and type of personality. It included millionaires, mill-workers, landlords, peasants, saints, gangsters, anarchists, communists, ascetics, fanatical Muslims, and fanatical Hindus, and its liability was a large supply of visionaries.¹ In other words: 'Congress...was used to performing in some degree the work of a national parliament where clashing viewpoints and concerns meet to determine a generally acceptable line of policy.'² Thus, the Congress was not at any rate, until 1946 a political party in the

¹G. Schusser and G. Wint, *India and Democracy*, pp. 115-56.

²W. H. Morris-Jones, *The Government and Politics of India*, p. 33. Also see: Because it could include in its ranks people of very diverse backgrounds and interests, it could function, according to N. D. Palmer, as an umbrella organisation. Robert I. Crane under the title 'Leadership of the Congress Party' said: 'From the time of the First Civil disobedience campaign the internal history of the Congress was the reconciliation of the multitude of special interests and different points of view'—See Park and Tinker (eds.), *Leadership and Political Institutions in India*, p. 181

accepted sense. It was more than a party since it had been the chief vehicle of nationalist movement.

Thirdly, the Congress differed from Western parties in its aim as well as methods for the attainment of its objective. It aimed at winning freedom from the none-too-willing hands of the British; and everything else was subordinated to it. It did not follow the constitutional methods of a political party. Under the leadership of Mahatma Gandhi it forged a new technique based on truth and non-violence. Thus the Congress was able to achieve country's independence by following peaceful and legitimate means, which was a new precedent in the world. Moreover, Gandhiji's personal example and influence inspired Congressmen with high ideals of purity, simplicity and service before self.

Lastly, the Congress was never satisfied merely by carrying on a struggle for political freedom ; it also strove hard to carry on a comprehensive socio-economic programme among the masses. The main items initiated by Gandhiji were the promotion of Khadi and village industries, achievement of economic equality, organisation of peasants and labourers, basic education and adult instruction, communal unity, promotion of Hindi as national language, removal of untouchability, uplift of women, prohibition, medical relief and village uplift.

After Independence. Many significant changes came in the Congress organisation. First, in 1946 under the Cabinet Mission Plan, it was called upon to share the major burden of running the government of the country. It gave up the methods of satyagraha and agitation ; instead it became a political party in the accepted sense. Second, the methods of hunger-strike, civil disobedience and satyagraha, which were formerly considered patriotic were now dubbed as treachery to the State. There was another aspect of this question. The Congress leaders and workers, to a large extent, cut themselves off from the constructive activities ; and they became engaged in elections to the Legislatures and to the offices of the party. Consequently, a large number of devoted constructive workers left the Congress and joined the 'Sarvodya Samaj', dedicating themselves to the fulfilment of Gandhiji's dream. The average Congressman became much more interested in selfish ends, i.e. permits, licences, jobs, etc. Many of them began to interfere in the work of administration for their own selfish gain.

Third, disintegration, as was bound to come, followed ; old and tried Congressmen who had fought shoulder to shoulder left the parent organisation on account of personal differences, rivalries, and

difference in their approaches to the various problems. The first to quit were the socialists, who were followed by J.B. Kriplani and his followers and a large number of constructive workers. On the other hand, a host of opportunists, self-seekers, including old Muslim Leaguers, entered the Congress in changed garb, and in many cases they were welcomed because they lent their support to the faction or group in power in organisational elections to Congress committees. Thus a rot set in the Congress and Congressmen began to exploit their position for their own benefit. Most of them forgot the old ideals of purity, austerity and service, with the result that in 1949 P. Sita-ramayya, as President of the Congress, clearly admitted that no body could deny the fact that many of the Congress saints had turned into savages, and the Congress also adopted a resolution denouncing such practices, but in vain.

Fourth, after independence it was called upon to solve a number of difficult problems, e.g., provision of basic material needs of food, clothing and shelter and the provision of cultural growth. Thus exceedingly difficult problems confronted the nation and even threatened the newly won freedom—problems of ensuring the freedom and integrity of the country, of integrating the various parts, of rehabilitating millions of displaced persons and of laying the foundations of future growth. In addition, civil and military services had to be reorganised. Many of these problems were a legacy of the past and the consequence of partition, and they were staggering in their magnitude and complexity. The consequences of a little miscalculation, complacency or lack of vigilance might have led to disastrous consequences. However, the Congress Governments succeeded in solving many of them. Moreover, in the sphere of foreign relations Indian Government achieved a great success in establishing friendly relations with all the important countries of the world, especially with the Asian nations and in furthering the cause of world peace. Its foreign policy received wide-spread appreciation and well-deserved praise in the country and abroad.

In 1949, the Congress adopted as its objective the establishment of Co-operative Commonwealth based on equality of opportunity and of political, economic and social rights. Its other objectives include the strengthening of world peace and fellowship and the forces of secularism in the country. At its annual session held in January 1955, at Avadi, Congress pledged itself to the establishment of a 'Socialist Pattern of Society.' At its Bhubaneswar session in 1964, the Congress redefined its objective as the attainment of '*democratic socialism*' i.e.

socialism by democratic means as well as based on democracy.

The Congress came out of the 1964 election with not only its strength in the Lok Sabha and State Assemblies, reduced, but, its image was also qualitatively changed. At the Centre no less than dozen ministers and deputy ministers, including partically half the Cabinet, were rejected by the voters. In the party organisation, the president Kamraj himself, the general secretary and the treasurer were also defeated. It should be noted that the Congress Party ceased to be a national organization with a special status and simply became one among a number of parties with only a little higher status. This by itself constituted a kind of cultural revolution for the Indian people. Indian secularist nationalism faced the challenge of religious and linguistic nationalisms. Socialism and non-alignment were repudiated by the much strengthened parties of the right and democracy, as it existed, was anathema to the rising tide of extreme leftism.

On the issue of choosing Congress candidate for the President's office in 1969, the Congress organisation (and Parliamentary Party) split into two. The Prime Minister, Smt. Indira Gandhi and her followers supported V.V. Giri, against the official candidate, Nilam Sanjiva Reddy and the former was elected. After the split in the Congress Party in 1969, events moved with dramatic suddenness. Mrs. Gandhi's faction which was dominant in Parliament, but not in many state legislatures, moved leftwards to garner support of the masses. A polarisation of right and left loomed on the political horizon, which brought Mrs. Gandhi the support of Communists, Praja Socialists, D.M.K., Akali Party, etc. Many Praja Socialists joined her Congress Party, and a durable political alliance was formed with the C.P.I. In the Lok Sabha election of 1971 and Assembly elections of some States held in 1972, the Congress led by Smt. Indira Gandhi (called Congress R) again secured a dominant position.

Superficially, post-1971 political picture resembled the pre-1967 and the political supremacy of Mrs. Gandhi that of Nehru. But the two Indians were vastly different. Mrs. Gandhi ruled in India with great mass awakening and rising popular discontent. Although the guerrilla movement launched by the so-called Naxalities in different parts of India was effectively suppressed, and the guardians of law and order seemed firmly in control, the situation in India was potentially explosive. All the manipulative skill of Mrs. Gandhi and the Congress seemed unable to control the tensions and conflicts seething just below the surface, bubbling over with increasing frequency, although Mrs. Gandhi's control over the party was almost complete

and the opposition was demoralised.¹

After 1971, the economy of the country began worsening, the chief reason for which was Indo-Pak war on the question of Bangladesh. The Government failed to control the steep rise in prices of essential commodities and the great increase in the number of the unemployed. In 1974, the youth agitation in Gujarat succeeded in getting the State Assembly dissolved. A people's movement under the leadership of J.P. Narayan was also launched in Bihar and other parts of the country. The crisis came as a result of adverse judgment by Allahabad High Court in an election petition filed by Raj Narain against Smt. Indira Gandhi's election to Lok Sabha in 1971. The opposition parties demanded resignation from Smt. Indira Gandhi, but she decided to file an appeal in the Supreme Court. Her decision was in accordance with the advice given to her by her senior colleagues, including Jagjivan Ram and Y.B. Chavan and the plea formally made to her by the Congress Parliamentary Board. Then followed the period of emergency, which led to rout of the Congress at Lok Sabha poll in March 1977 and the installation of Janata Party Government at the Centre.

After the election, in a letter to the Congress President Mrs. Gandhi said, 'So far as I am concerned I should like to make it clear that as one who led the Government I, unreservedly, own full responsibility for the defeat.' The developments in the following months led to another split in the Congress in December 1977. Seven pro-Mrs. Gandhi members of the Congress Working Committee resigned on 27 December. Mrs. Gandhi and her supporters (7 out of 20 members of the Working Committee) claimed that they were the Indian National Congress. Being in a minority, they could not seize control of the party, but they split it. Y.B. Chavan remarked 'We stand for Gandhi, Nehru, she for herself.'² K.D. Malviya wrote, "Power went to her head; it was not any ideological conviction to use the opportunity for clear-cut socialist action that served as a motive with her. In this process she was soon surrounded by many who had little desire to exploit the situation for social change. Stone worshippers and lovers of feudal life surrounded her in the name of progress, secularism and democracy.... It goes without saying that if immediately after the High Court judgment against Indira Gandhi, the situation had been managed more honestly and with restraint, the Congress

¹Surinder Suri, *Politics and Society in India*, p. 210.

²*Illustrated Weekly*, 29 Jan., 1978, p. 12.

would have entered into a very significant phase of social progress and Indira Gandhi would have remained the legitimate leader of the country."

'Let us now come to the recent events: The leaders of the Indian National Congress at the top could have controlled the erratic and misleading ways of Mrs. Indira Gandhi. At the time of the AICC meeting we could have agreed to the parting of ways but the basis should have been legitimately worked out. But I am sorry to say that the pampered leadership of the last two or three decades was vain enough to ignore the emotions and the wishes of the rank and file. Brahmananda Reddi along with some others are as guilty as Mrs. Indira Gandhi. The situation created a vacuum and a depressing atmosphere in the Congress to which I still belong.'¹

Within a few months Smt. Gandhi established her claim to being the genuine Congress. 'Be that as it may, the Vidhan Sabha elections of 1972 February settled two issues. First, that Mrs. Gandhi's party was the genuine Congress as far as a vast majority of its traditional supporters, especially the Harijans and the Muslims, were concerned. Secondly, that apart from Mr. Y.B. Chavan in western Maharashtra where alone the official Congress did reasonably well other party stalwarts amounted to little without the backing of a charismatic figure like Mrs. Gandhi. Since then, the other Congress has been in disarray waiting to be wound up one way or another. The true Congress, true by virtue of enjoying popular support, is alive and kicking with the addition of a small bracket with the "I" in it. The bracket should disappear sooner or later, the sooner the better.'²

Again, after some time differences arose between Smt. Indira Gandhi and Devaraj Urs, who left the Congress led by Smt. Gandhi and founded the Karnataka Congress. The birth of the Karnataka Congress party, despite its strictly regional nomenclature, was bound to have its impact far beyond the frontiers of the State. Unlike the two Congress splits in 1969 and 1978, where Smt. Gandhi had walked away with the lion's share of party support, she clearly headed a small rump in the Karnataka Congress (I). Devaraj Urs demonstrated that out of 155 MLAs belonging to the erstwhile Congress (I) at least 131 were with him in the new party. More significantly, the party of Urs for the first time, provided an opportunity for all

¹*Ibid.*, 23 April, 1978, pp. 23-5.

²Girilal Jain, *The Congress Rises Again*, *Ibid.*, p. 10.

Congressmen opposed to the authoritarian ways of Smt. Gandhi and her son to come together "to revitalise the Congress movement." But the first problem of such a party was to resurrect the image of all the Congress leaders who had been either active participants or passive abettors in the excesses of the emergency regime of Smt. Gandhi. While most of the Congressmen elsewhere had lost their credibility with the people, Urs had the unique advantage of carrying the people of his State with him despite all the horrors of the emergency because he commanded a mass base founded on his government's performance.¹

The Lok Sabha was dissolved in 1979 and the elections were held in January 1980. The Congress (I) under the dynamic leadership of Smt. Gandhi won the elections, securing more than two-thirds majority in the House. The Congress rose again to the position of primacy and dominance, simply because of Smt. Gandhi, and this was in spite of the three splits in the party—1969, 1978 and 1979 and every time the majority of Congress leaders being in the rival group. This clearly showed that most of the active Congressmen and its supporters were with the Congress (I). Consequently, the Election Commission, by declaring the Congress (I) as the Indian National Congress, only recognised the reality. The real significance of Election Commission's verdict lay not so much in coming out in favour of the Congress (I) as in de-recognising the rival claimant as a national party.²

The Indian National Congress is now headed by Smt. Indira Gandhi. Even after two years of its thumping victory in the Lok Sabha election, followed by similar victory in State Assembly elections and by-elections, no organisational elections have been held in the party. Pradesh Congress Committees are still nominated bodies. The Chief Ministers in the States have been selected by the Party president, apparently on the request of the State legislature parties. Smt. Gandhi is both the life and spirit of the Congress governments and organisation.

Critics call her ways 'authoritarian'. 'Whether one likes it or not, in today's India, Mrs. Gandhi is the only true politician we have. Indeed, occasionally even she shows signs of confusing semblance of authority for true authority. While true authority is one that is exercised on a day-to-day basis on rational considerations in pursuit of specific objectives, the votaries of the other kind of authority are

¹*Indian Express*, Editorial, 27 June, 1979.

²*Indian Express*, Editorial, 25 July, 1981.

content with formal obeisance and the trappings of office'.¹

Another significant point of criticism against the Congress has been that it has been interested more in retaining power in its hands than in sincerely implementing its declared policy of socialism. Weiner observed : 'In this effort to win, Congress adapts itself to the local power and structure. It recruits from among those who have local power and influence. . . .The result is a political system with considerable tension between a government concerned with modernising the society and economy and a party seeking to adapt itself to the local environment in order to win elections.'²

A consequence of the above is the presence of factions in the Congress. It has been called a coalition of factions ; but there are two ways in which factions operate within the Congress. First, there are ideological groups –forums like the Socialist Forum and Nehru Study Forum. The former stood for social ideas and ideologies and a quickening of the pace of planned development in the country. It highlighted the ideology of socialism before the countrymen and also stirred up consciousness among the masses for the building up of a socialist order through peaceful and democratic methods. It sought to adopt radical measures within the Congress Party. The latter forum came as a counter-vailing reply to the foregoing trend. To counteract that trend, the Congressmen and democrats strictly sought "to preserve the Nehru's policies from distortions by the Communists." It was committed to function within the framework of the Congress, and stood for propagating the philosophy of J.L. Nehru. These forums acted like groups or sub-systems i.e. groups as interest articulators placed their policies, resolutions and demands upon the political decision-makers (inputs) and the political system (i.e. the Governments) as an aggregator of interests arrived at authoritative decisions (outputs) over resolutions and demands.³

Second, "the factions operating within the Congress Party" are loose coalitions of local/district faction leaders, tied together at the state level partly by personal bonds of friendship, partly by caste loyalties, and most of all by political interests."⁴ The result is that the declared socialist programmes of the Congress have hardly anything else than a superficial recognition and the leaders are often

¹Gi ilal Jain, 'Mrs. Gandhi and Congress (I)', *Times of India*, 13 Jan., 1982.

²Myron Weiner, *Party Building in a New Nation*, p. 15

³Sunil Ranjan Chakraborti, 'The Ruling Congress in India : A Profile of its Factional Interactions', *I.J.P.S.*, Apl. June 1977, pp. 204-05 and 216.

⁴Paul R. Brass, *Factional Politics in an Indian State*, p. 55.

found in providing momentary justifications to their acts of commission and omission in the name of their policy of adjustment and accommodation. Thus the composite character of party is preserved that, indeed, becomes more heterogeneous by promiscuous accommodation of divergent elements. Their commitment to the new consensus created around the objectives of economic development makes socialism and democracy like superficial affairs.¹

'Interest in the proper management of the Congress (I) cannot remain confined to the party members and leaders. The party's internal affairs are a matter of wider concern because it has given the country political stability and it is unlikely to be replaced as a dominant force in the foreseeable future.' A particularly disturbing aspect of the conduct of the party's affairs has been the absence of the organisational elections in the last ten years. 'It is no body's case that factionalism will evaporate once nominated party committees are duly replaced by elected ones and leaders of the legislature parties are elected by a majority or selected on the basis of a genuine consensus. But there is reason to think that the adoption of the established democratic procedures will at least help contain the problem. For elected office-bearers normally command greater respect among the rank and file than the nominated ones. What is more, periodic election in accordance with the party constitution is essential to save the party from becoming moribund.

'The capacity to provide the country with a clean and effective government and to restore to the party a modicum of health is what is needed the most at present. There is no reason why Mrs. Gandhi should not draw upon the talent which is back in her fold though it had drifted away from her in 1978 more because of the late Mr. Sanjay Gandhi than because of anything else. Even more imperative is the need to reform the party structure and to hold organisational elections so that the Congress (I) can once again become at least the kind of party that it was during the eight-year period from 1969 to 1977. The alternative to this is bleak.'

After the announcement of election results for the State Assemblies of Andhra Pradesh and Karnataka early in January 1983, the Times of India wrote that the Congress had committed political harakiri in Andhra and it had come fairly close to doing so in Karnataka. The people in these states had given the party their trust

¹J. C. Johari, *op. cit.*, p. 482.

²Inder Malhotra, 'State of Ruling Party', Times of India, 29Apr. 1982.

in March 1978 when it was barely a few weeks old ; but it had wantonly betrayed their trust. 'If the Congress (I) had won the election in the two southern states or even scraped through, the credit would have justly gone to Mrs Gandhi. She was its principal campaigner and she did not spare herself in the least. Indeed, the candidates asked for support mainly in her name. They had no other claim to the indulgence of the people. So she must carry the burden of the defeat. She will be widely held responsible for it on other counts as well. She did precious little to check the precipitate descent into corruption and arbitrariness on the part of men and women who ruled the states in her behalf.'¹

Mrs. Gandhi's debacle at the Assembly polls in Andhra Pradesh and Karnataka synchronised with the completion of her three year rule after return to power in 1980. According to Kuldip Nayar, no one had the courage to tell her that the people were turning against her and that the old practice of heaping the blame on government and absolving her of any responsibility was going on. Even otherwise the one outcome of Andhra Pradesh and the Karnataka elections was the shrinking of her stature and the importance. Dissidence within her party would grow, as the time passed there might be more Rashtriya Congresses, Gujarat had shown the way—since her writ might not run that wide. Two courses remained open to her. First, she could change the style of her governments, decentralise power and select such chief ministers as deserved position on merit and not on loyalty. Second, she could opt for the presidential system of government ; but she would have to cross two hurdles. One, the constitution has to be amended by a 2/3rds majority in both the Houses of Parliament. Two, the Supreme Court may adjudge the switch-over from the parliamentary to the presidential system a violation of the basic structure of the Constitution.²

The pendulum has begun to swing in the opposite direction. This much is clear from the rout of the Congress (I) in Andhra and Karnataka. Once again, the judgment of the people is that Mrs. Gandhi has given them as chief ministers, state ministers and, indeed, as Union ministers men they cannot respect. Gundu Rao was a standing insult to the people of Karnataka and so were those who engaged in the game of musical chairs in Andhra. And who has not heard stories of Union ministers, other influential worthies, their cronies and

¹Times of India, 7 Jan. 1983.

²Kuldip Nayar, *Alternatives Before Mrs. Gandhi*, Pioneer, 15 Jan. 1983.

cronies of their cronies making piles of money ? The stories may be false ; in all probability, the sums in question are greatly exaggerated. But every businessman, who is required to cough up whatever sum of money, talks. And what they say is accepted at its face value and indeed gets garnished as it travels by word of mouth.

'All in all, it is a reasonably safe bet that if Mrs. Gandhi were to order an election to the Lok Sabha soon, which, of course, she will not, she will have a tough fight on her hand. The tide is strongly against her right now. Bihar, U.P., Rajasthan and Madhya Pradesh can fall to any credible foe. But Mrs. Gandhi has two more years and the opposition is in no position to force her to seek a fresh mandate. In this period, the pendulum can swing in her favour unless she allows the present drift into immorality and incompetence to continue and the impression to gather that even a shock like the one she has received in Andhra and Karnataka cannot shake her out of her recent ways. On the contrary, the chances appear to be that if the decline of the Congress (I) continues, a sufficiently large segment of the electorate may by early 1985 transfer its support to another party or even an alliance. It is too early to say that the BJP is well placed to emerge as an alternative to the Congress (I) in the Crucial Hindi belt, but its performance even in Karnataka shows that it is making a significant headway. So we may well witness a major change in the next two years unless Mrs. Gandhi is able to get hold of the situation. She can begin by shedding some of the useless baggage she has been carrying on her train. She will have to drop many of the "passengers" if her train is to make the destination in 1985.'¹ Mrs. Gandhi asked Shri Kamalapati Tripathi, a veteran Congress leader to assume working presidency of the party. Four of the general secretaries of the party resigned to enable the President to reconstitute the party setup. C.M. Stephens, a former member of the central cabinet and Rajiv Gandhi M.P. were appointed new general secretaries.

JANATA PARTY : AN UNSUCCESSFUL EXPERIMENT

The opposition leaders after languishing in jail for 19 months came out convinced that this was probably the last chance of their life-time to save themselves from the clutches of a dictator and re-establish and reinstate democracy. They had to swim together, otherwise they might sink together. 'They forgot many of their

¹Girilal Jain, '*Last chance for Mr. Gandhi*,' Times of India, 13 Jan. 1983.

differences—ideological, social, personal—their ambitions and their love of office, their positions and power in their respective small parties or groups, and came together almost without a moments' hesitation, accepting the advice and pleadings of Jaya Prakash Narayan, to form themselves into a new party which was to be known as Janata Party. Those who came together to form this party were the BLD, the Congress (O), the Socialist Party and Jana Sangh.' They were later joined by Jagjivan Ram and his associates who had left the Congress Party to form themselves into a separate breakaway group, known as the Congress for Democracy (CFD).'¹

The Party was actually born before it could properly be formed. Early impulses for its formation culminated in the political onslaught of March 1977, resulting in the crash of the mighty Congress after thirty years of unquestioned supremacy. Historically, Janata's victory could be likened to the transfer of power from the British to the Congress rulers. In both cases, there was change with continuity. The reality of the change effected by Janata's coming to power should not be obscured because it was slow or because many former Congress stalwarts dominated the Janata. What one must appreciate was the direction of the change. It was a change towards more participatory politics. In an illiterate, economically backward country, the democratic system inevitably would imply such a direction. Mass participation and populist politics have their own logic.'

The Janata Party fought the Lok Sabha elections on the promise of ushering in Gandhian socialism that was to ensure decentralisation of economic and political power and help build a free and just society. The party's manifesto released in February offered the Gandhian alternative of "both bread and liberty", as the two were inseparable. The Party adopted the constitution of the Congress (O) with the necessary terminological changes. The inaugural function of the Party was held on 1 May 1977 in New Delhi. Moving the merger resolution on behalf of the Bhartiya Jana Sangh, A. B. Vajpayee said that the Janata had accepted socialism based on Gandhian ideas as its goal. Active intellectual cooperation, clear formulation of its ideology in the light of the social relations and dynamic adaptability to the prevailing diversities in the country with the object of achieving progressive changes in the total social structure, were essential for the Janata to be effective as a national alternative.

The Janata Party fulfilled the need of an alternative party, and

¹Santo Esteves, *Prospects of Indian Democracy*, p. 193.

²Rajender Puri, 'Political Parties: The Janata,' *Illustrated Weekly* 29 Jan, 1978.

this gave rise to great hopes for the success of parliamentary democracy in the country. Party President, Chandra Shekhar, declared on 1 May 1977 that his party was an instrument of economic change and dedicated to the transformation of society. But it could not improve its image and performance since its constituents were unable to overcome their previous identities and develop a greater sense of unity of purpose. The absence of an affective performance on the part of the government in controlling prices and atrocities against the Harijans sharpened the differences among the constituents.

In the first year of its rule the Janata Party repeatedly claimed credit for having dismantled the apparatus of authoritarian rule which Smt. Gandhi had set up before and during the emergency. This claim needed to be qualified not because the apparatus had not been dismantled but because the leadership did not have any choice in the matter and, to the extent it had, it was dragging its feet or even backtracking, for example, its decision to make preventive detention part of the country's criminal procedure code and its move to retain the emergency provision in the Constitution. The Party's second claim regarding the reorientation of economic policies was equally untenable for various reasons. It was not wholly true that the Congress Government had not allocated the resources the agriculture sector needed. Similarly it was not true that cottage and small-scale industries had been starved of resources during 30-year Congress rule. Its third claim that it had eliminated the pro-Soviet bias in foreign policy and befriended the West without alienating the Kremlin and that it had strengthened the country's ties with its immediate neighbours was conceded by relatively disinterested observers.

In June 1978, Charan Singh and Raj Narain were asked to resign from the Cabinet, the former, describing the move against them as a "conspiracy", remarked that as one of the architects of the Party he could never think of breaking it. So their group decided to continue their fight from within the Party. While the in-fighting among the central leaders was a sorry spectacle, the situation in precisely those politically crucial states where the Janata had been able to supplant the Congress in both the Lok Sabha and Assembly polls in 1977 was an even sorrier one. Since the Janata conspicuously failed to widen its social and power base beyond the swathe it had carved for itself from Himachal Pradesh in the north to Rajasthan in the west to Orissa in the east, its failure to consolidate its position in its strongholds could mean its reduction to political impotence in the not-so-

distant future.¹

While, according to many political observers, the cause of in fighting and indiscipline in the Janata was the power game, as it became clear after some time when Charan Singh group resigned, there were others who discovered basic antagonisms in the Party. The problem was not that the constituents of the Janata Party did not have time to get over angularities which were natural when strangers were suddenly thrown together by extreme adversity and sudden success. The basic problem was that political indiscipline in the Janata Party was constantly refuelled by the crisis of ideology and strategy referred to above. The BLD faction's advocacy of peasant or kisan power antagonised the urban-oriented ex-Congressmen in the Janata Party, as also the Harijan and Muslim minorities-oriented factions such as the CFD. What was much more important, it antagonised the Jana Sangh faction when the mailed fist of the BLD kisan power tried to take over the cities. The Jana Sangh faction was compelled to put up a fight. It did so, not only to defend its traditional urban bases among the petty bourgeoisie and middle-class professionals (with the refugees from West Pakistan as its core, but also to defend its recently developed bases among unionised professionals and workers. The various ginger-groups of ex-Congressmen, including ex-Congress socialists, were on the other hand more likely to mark time in frustration, rather than put up a fight worth the name.²

By the end of June 1978, more and more people were wondering if there was really a Janata Party governing the country. There was more tangible proof to show that what passed for the ruling party was only a loose coalition of five warring groups and what passed for a national leadership was only the physical proximity of men flung into each other's arms because of Smt. Gandhi's lust for unbridled power and her son's inanity. In a way, Mrs. Gandhi was right when she said that the only thing keeping Janata together was its hostility to her, though there were disquieting reports that, even on the urgent question of punishing the former Prime Minister, Janata was by no means as united as it pretended to be. The manner in which Janata had squandered the goodwill with which it began was staggering. In all history, never was a party elected with such faith and hope and never did it disappoint the voters with such rapidity.³

¹*Times of India*, editorial, 4 May, 1978.

²Arun Bose, 'Ideological Crisis in the Janata Party', *Times of India*, 15 June, 1978.

³K.R. Sunder Rajan, 'Janata's Fading Glory' *Illustrated weekly*, 2 July, 1978, p. 10.

A.B. Vajpayee, wrote on 7 August 1979 that all were responsible for Janata crises. He also said, 'Apprehensions about the RSS aiming at capturing political power are without foundation. Its very character, its composition, the social strata from which it draws its cadre, its day-to-day activities, are such that it cannot mobilize support from the masses of a country like India, where there is so much diversity of religion, language, caste etc. even though it has built up a countrywide organisation of patriotic disciplined youth which is the envy of many.'¹

On 18 July 1979, Kuldip Nayar, in an article 'Murder of a Party' published in *Indian Express* wrote, 'Who did it? How did it come about? Nobody knows. All that one can see is the body of the Janata Party lying bruised and battered. Too many finger prints are on the weapons used.' The first major split in the Janata Party occurred when Charan Singh and his supporters left the Party. Their exit led to the fall of the Party Government in July 1979.

Jagjivan Ram was made leader of the Party after the resignation of Morarji Desai. But the new leader was not invited to form the Government, instead Charan Singh was asked to head a new government, with the support of Congress (I). When the Congress withdrew its support, Charan Singh's Government could not even face the Lok Sabha. The House was dissolved and new elections were held in January 1980. On account of its non-performance and division, it failed miserably at the polls. After that Jagjivan Ram decided to part company with the Janata Party early in March 1980. This was the second split, which was later followed by further divisions.

In February 1981, the Janata Party held its convention at Sarnath and the Congress (U) organised a rally at the Boat Club in New Delhi. The national convention of the Janata Party, after the parting of the ways between it and the Bhartiya Janata Party, again entrusted its leadership to Chandra Shekhar. He refused to re-appoint Subramaniam Swamy as one of the general secretaries and relegated Morarji Desai and other leaders to the position of special invitees. He felt that the Janata was not an alternative to the Congress (I), but he aimed at making the Janata a force to reckon with by maximising contacts with other opposition parties and groups. In the Congress (U), Smt. Tarkeshwari Sinha resigned as a general secretary against the capriciousness of party president Devaraj Urs. The bickerings within the party were aggravated by the collective failure of its top

¹*Times of India*, 7 Aug. 1979.

leadership to persuade a younger leader to take over the leadership of the party.¹

In the elections for the state Assembly of Karnataka held in the first week of January 1983, the Janata-Kranti Ranga front and the BJP won a majority of seats. After the election, new state government was formed in the name of the Janata party and it was headed by Ram. Krishna Hegde, General Secretary of the all India Janata Party. S. Bangarappa, leader of the Kranti-Ranga assailed the Janata party leadership for foisting a non-member as the leader of the state Janata Ministry. However, he said that despite his lack of confidence in the Hegde ministry, he would continue to support the Janata government. The Lok Dal headed by Karpoori Thakur merged with the Janata party on 27 January 1983.

Nearly 2,000 workers from different states gathered at a 'unity conference' organised by Raj Narain and Banarsi Das, former Uttar Pradesh Chief Minister, at the Railway Institute, Lucknow on 23 February 1983, and took the pledge to strengthen and develop the Janata Party as a national alternative. They called upon the Lok Dal and other parties, including the Bharatiya Janata Party 'minus the Rashtriya Swayam Sevak Sangh,' to make a sacrifice for creating a powerful and effective alternative.

Welcoming Raj Narain and others, Arjun Singh Bhadaurla, president of the state unit of the Janata Party, said that a national alternative had to be found not merely to change government but create a society free from exploitation. George Fernandes described the return of Raj Narain as 'one more step towards creating a meaningful national alternative, with a goal to provide the people with alternative sets of principles and programme.' However, a note of caution was struck by Surendra Mohan, Janata leader, who said that those who had come together would also have to stay together. Along with Raj Narain and Banarsi Das, a majority of Democratic Socialist Party legislators joined the Janata Party, leaving Bahuguna's party virtually a wreck in the state. DSP leaders of Madhya Pradesh, Maharashtra and West Bengal also attended the conference. Prominent Janata leaders present on the occasion included Karpoori Thakur (Bihar) and Kumbha Ram Arya (Rajasthan).

¹Hinder Malhotra, 'A Tale of Two Parties : Janata and Congress (u)' Times of India, 26 Feb. 1981.

III. Rightist Parties

BHARTIYA JANA SANGH (JS)

The Rashtriya Swayam Sewak Sangh (RSS). Since the BJS originated from the Sangh, it seems appropriate to give a brief account of the parent organisation. The Sangh was inaugurated at Nagpur by Dr. Hedegwar. Though not officially affiliated to the Hindu Mahasabha, it was a pro-Hindu Mahasabha organisation ; and it was officially recognised by the Mahasabha in 1939. M.S. Golwalkar was appointed its chief organiser in 1940, after the death of its founder. Though ostensibly an open organisation, the Sangh maintained considerable secrecy about its membership. It was organised on semi-military lines with a secretariat at Nagpur, consisting of a Commander-in-Chief and a number of provincial organisers. It held officers' training camps regularly every year, laying emphasis on a steady preparation for the attainment of its ultimate objective of Hindu supremacy. The Sangh (National Volunteers' Organisation), in short, was a counter-force to the Muslim National Guards. On 30 January, 1948 Mahatma Gandhi was assassinated by a fanatical Hindu communalist, who was a member of the Hindu Mahasabha and a former member of the RSS. On 4 February the Government placed the RSS under a ban, and immediately after, about 1,700 important RSS members were arrested. Not until 12 June, 1949 was the ban lifted.

Birth of the J S. As a result of the ban considerable frustration developed within the organisation; many of the RSS members felt that had they been a large political force with representation in Parliament, it would not have been possible for the Government to have banned them. The RSS members further felt that the ban was the Congress Party's way of attempting to suppress a powerful anti-Congress force. So they decided to form a new political party—the Bhartiya Jana Sangh. From the very earliest the new party sought to dispel the notion that it was a 'communal' party. This was done in two ways: (1). The party leaders emphasized that, unlike the Hindu Mahasabha and Ram Rajya Parishad, Jana Sangh was open to all, and (2) The new party was for Bharatiya Rashtra, not Hindu Rastra, as advocated by the Hindu Mahasabha.

The party aimed at "the establishment of an economic democracy with equal opportunities for development to all and with no chance for any exploitation. To this end it intended to introduce revolutionary

changes in the existing economic order. These changes were to be in keeping with Bhartiya values of life." It rejected imitation of Russia or America because the condition of Bharat was different from both, it has more men than lands, and it is industrially backward. It promised to introduce "revolutionary changes" in the economic set-up of the country with a view to removing exploitation and reducing inequality. The party felt that exploitation and inequality could be removed by adopting measures such as regulation of large-scale industries and/or their decentralization wherever technological factors permitted cooperativisation, labourisation, adaptation of suitable fiscal policies and ceiling on income for ploughing back into the economy through investment, loans, charities, etc. The party thought that nationalization of industries could not avoid concentration of power. It advocated planning within the framework of parliamentary democracy, and the party sought to evolve a technology to suit country's social conditions.

As regards the land reforms the party sought to satisfy both the landlord and the tiller. While the socialist slogan had been "land to the tiller" and the Congress policy advocated a ceiling on landed property; the JS promised a rehabilitation grant on a graded basis to zamindars and jagirdars. It opposed ejection of the tillers and sought restoration of all lands from which they had been illegally or improperly ejected. Small-scale and cottage industries should form the basis of the programme of industrialization. JS stood not only for mass production but also for production by masses. It therefore opposed modernisation of labour saving devices, which were going to increase unemployment. With regard to foreign capital, JS favoured foreign capital coming to India in the interest of the nation, subject to such conditions : (i) That the foreigners associated with concerns, run or patronised by foreign capital, would train Indians; (ii) the period of such participation was to be fixed after which those concerns could be controlled entirely by Indians; and (iii) it was of the opinion that Indian Government could nationalize any particular concern after it was paid reasonable compensation by the Government. At the time of the General Elections it went a step further and demanded the Indianization of foreign economic interests like tea, coffee and rubber plantations and mining. The JS welcomed foreign aid coming to the country but without any political strings attached to it; and it was to be used for the purpose for which it was meant. While it opposed the Western type of Welfare State, it also condemned the totalitarian methods of USSR and China which could only succeed in equalizing poverty, and that, too, by destroying liberties. The family, not the

individual man or woman were to remain the sheet anchor of our social life and economic planning.¹

According to Sankhdhar, the JS was a nationalist and traditionalist party. As a party, which catered to the needs of the middle classes, it resisted the temptation of proletarianism. But the JS had to make positive efforts to wash its image of being a communal party. In this sense Balraj Madhok's expulsion from the party leadership was a sanguine development since he symbolised in the public eye the communal fringe in the organisation. The identification of JS with Hindu was an error and the deep seated prejudice against the Muslims, for whatever reasons, was desired to be replaced by a constructive thinking on how the Muslims could be assimilated into the mainstream of national culture. The JS also needed fundamentally an operative socio-economic ideal. The JS had also not been able to define any set pattern of thinking on internationalism; its mere plank of an anti-Pakistan policy could not hold good. However, it was a unique advantage to the Sangh that it was a cadre-based party, having coherence and unity in its ranks.²

Swatantra Party (SP)

C.Rajgopalachari, veteran Congress leader and the first Indian Governor-General, feeling concerned at the growing trend of the Congress Party towards socialism and communism, gave the idea of founding a new party in June 1959 based on liberal values. The preparatory convention of the party was held on 1-2 August, at Bombay. Attended by about 6,000 representatives the convention adopted a 21-point statement of principles, chief of which were : (i) social justice and equality of opportunity for all; (ii) it held that the progress, welfare and happiness of the people depended on individual initiative, enterprise and energy; (iii) the policies of the State should be founded on faith in the people; (iv) it held that in the policies adopted for national development, priority was to be assigned to the basic needs of the people, namely, food, water, housing and clothing; (v) in industry the Party believed in the incentives for higher production and expansion inherent in competitive enterprise with adequate safeguards for the protection of labour; (vi) preservation of the freedom of small and self-employed artisans, craftsmen and traders; (vii) opposition to all policies that led to excessive inflation and high prices; (viii) decent-

¹Motilal A.Jhangiani, *Jana Sangh and Swatantra*. pp, 69-87.

²M.M. Sankhdher, '*Jana Sangh's Search for Ideology*, Democratic World, 1 March 1973.

ralised distribution of industry and limiting of State's own regulatory function to the prevention and punishment of anti-social activities wherever called for; (ix) fair deal for labour; (x) belief in the cardinal teaching of Gandhiji; (xi) opposition to centralised planning of the Soviet type; (xii) opposition to socialism of the Congress brand; and (xiii) acceptance of democratic principles enshrined in the Constitution.¹

In 1962, the Party laid emphasis on "a strong and vigilant opposition," particularly directed against the communists. In 1971, Paty's chief preoccupation was the restoration of supremacy to Parliament without promoting a confrontation between judiciary and Parliament. Firm rejection of collective farming and joint-stock farming; supply of essential consumer commodities at constant prices; large-scale entry of public sector in consumer goods industry; a massive programme for rural and urban housing; financial and technical assistance to help educated youth to implement self-employment schemes; autonomous corporations with adequate representation to technicians and workers on the boards of management in the public sector undertakings; etc. were some other points of the programme.

As a party devoted to the preservation of freedoms the Swatantra respected the rights of the working class, and wanted to create conditions for its well-being and opportunity for its development. The Swatantra was opposed to collectivization by compulsion and persecution, but it favoured re-distribution of wealth and social power on a more rational and practicable basis by controlling capitalism, promoting individual capacities and protecting the weaker sections. However, a major lacuna in the ideological scheme of the Swatantra was the absence of a proper philosophy for the uplift of the depressed and the downtrodden classes. The party, therefore, did not escape the allegation that Indian liberalism had head, but no heart.²

Its leaders were in some respects a disparate group but they generally shared a horror of socialism and even of growing state controls. Among the leading elements were therefore included representatives of major industrial and commercial interests, retired top civil servants and professional men, scions of princely houses, and groups of substantial agriculturists. On the whole, it was a sophisticated and well-educated set, predominantly modernist and rational in tone. Another weakness of Swatantra lay in its non-existence in many

¹Subhash C. Kashyap, *Indian Political Parties*, pp. 182-230.

²S. N. Sadasivan, *op. cit.*, pp. 266-67.

States, poor following among both agricultural and industrial workers and overwhelming dependence on landlords, capitalists and other aristocrats for its electoral support. Swatantra's reliance on the aristocracy had raised doubts about the party's liberal future. The potentialities of Swatantra could not be realised if it failed to reconstruct its image before the public. The charge that the Swatantra stood for the *status quo* was to go, and the conviction that it stood for the reasonable freedom of the individual was to grow. On these depended its future.¹

'The performance of the Swatantra Party on the political graph of India was in the form of a parabola, that is to say, there was a steep rise (1959-1967) and a steep decline (1967-1974). This steep rise was itself the main cause for its equally steep decline. The sudden importance of the Swatantra Party was without any clear idea about party building or a philosophy that took into account the dynamic character of politics, especially in an under-developed society like that of India. The Party failed to keep pace with the rising tide of political consciousness that called for change, progress and more opportunities to the poor and the underprivileged. The Party increasingly became isolated ; it mostly confined its activities to legislative sphere, and to a politics of manipulation and capturing of power without purpose. Still, the role played by the Swatantra Party in national politics cannot be underestimated. The Party was one of the major political forces in India from 1959 to 1969. Its formation in 1959 represented an effort on the part of some of India's most distinguished public figures to build a 'non-leftist' opposition to the ruling Congress Party.'²

Bhartiya Janata Party (BJP)

The convention called by the former Jana Sangh members of the Janata Party decided on 5 April 1980 to form a new party. A.B. Vajpayee was requested to lead the BJP. The Party was actually born on 6 April, out of the third split in the Janata Party. It pledged to fight more vigorously the "challenge of dynastic dictatorship of Smt. Indira Gandhi (and the late Sanjay Gandhi). The convention attempted to give a secular colour to the party by accepting J.P. Narayan's philosophy of total revolution. In his presidential address, Vajpayee emphasised this when he said that secularism and

¹N.H. Sitaram Sharma, '*Swatantra's Survival*, Democratic World, 10 May, 1973.

²P.D. Sharma, '*A Diagnostic Appraisal of the Swatantra Party in Indian Politics 1959-74*', I.J.P.S., Sep. 1979, p.453.

unity in diversity were the corner-stones of Indian nationalism and the new party was being set up with an abiding faith in these principles. The Party was to give the foremost place to promoting the interests of the minorities and the backward classes.

The national executive of the BJP appeared to be counting on widening the party's base of popular support through highlighting the issue of corruption that touches people in their daily lives. Its leaders and its rank and file being well aware of the party's political isolation are anxious to reduce it and make common cause with opposition parties against the Congress (I). That is why, in addition to the emphasis on fighting corruption through mass action, the national executive also warned against the "authoritarianism" of the ruling party, asking "all parties and elements committed to democracy" to be "vigilant about the government's intentions." Specifically, it warned against what it saw as an attempt by the Congress (I) to introduce the presidential system which would be a "euphemism for autocratic rule." The difficulty is that while the other opposition parties may see eye to eye with the BJP on their attitude towards Congress (I), that does not make the BJP any more acceptable to them as partner in politics. 'The BJP's ambivalence on this score arises, paradoxically, from the gradual headway it is making. In the recent by elections, it did well enough to be quite pleased with itself. It is quite strong in the Hindi heartland. In states like Gujarat, it is fast replacing the Janata as the main opposition party. In Maharashtra, it is picking up momentum. It is, by all accounts, winning adherents in the southern states, which have traditionally been resistant to it, although this fresh source of support has yet to manifest itself electorally. Encouraged by this, the party leadership appears to feel that it could strike out on its own and make a success of it.'¹

At Vrindavan the BJP adopted certain changes in key areas ; for instance, it has adopted 'Gandhian Socialism' as its political philosophy. But the party President soon after said : "We are carrying on an intensive campaign to educate our workers and to tell them that there is no difference between this and the integral humanism that Deen Dayal Upadhyaya formulated." The second major shift was in foreign policy. The BJP, in its recent political statements has come out strongly in favour of friendship with Pakistan and rapprochement with China. This is suprising, because the Jana Sangh was throughout its 25 year existence vociferously anti-Pakistani. But party-

¹*Times of India*, editorial, 8 Dec., 1981.

men now hasten to clarify that the Jana Sangh was formed barely five years after partition when the wounds were still fresh. The third shift was on the question of nuclear weapons. "In our Jana Sangh days", said party chief in the Rajya Sabha, J.P. Mathur, "we were strongly in favour of India's possessing an atom bomb. Now we don't. Call it dilution of our policy, or compromise, or what you will." Jethamalani added that the BJP had now realised the value of friendship with Pakistan and the fact that India's defence budget was "stunting India's progress". There has been a change on the Kashmir question, too. Party ideologue Sunder Singh Bhandari said: "There was a time when we were agitating for the repeal of article 370, which gives special status to Kashmir. Now we are not."¹

The BJP is mainly the party of the Hindi belt, Madhya Pradesh being its strongest base. But recently it has expanded its influence in the south also. Its membership is drawn mostly from middle class shopkeepers, small traders and a few professionals—teachers and lawyers. Its influence, therefore, is largely confined to urban areas. 'BJP is unlike Congress and its various fragments and it has also not much in common with the Lok Dal. The organisations of both the Congress-I and the Lok Dal centre round certain personalities, they are not committed to any fixed principles. Hence, in these parties, personalities over-ride ideologies; the members of these parties understand ideology only through the leader of the party. Thus for those belonging to Congress-I, Indira Gandhi symbolises ideology and the members of the Lok Dal find in the person of Charan Singh whichever ideology it can offer them. But this cannot be said about BJP. It has a distinct ideology. Another distinctive feature of this party is that it does not function through nominated office-bearers. Hence in this party there is not much of scope for the development of personality cult.'

The victory of the Congress (I) and defeat of the Bhartiya Janata Party in the elections for Delhi Metropolitan Council and Delhi Municipal corporation, held early in February 1983, led the BJP president, Atal Behari Vajpayee to resign from presidentship. His ostensible aim in submitting his resignation in the wake of the Delhi elections was to own up the responsibility for its poor performance. Vajpayee's resignation had triggered speculation, both in political circles and a section of the press, that either the RSS hard core was exerting pressure on him to quit or that he had chosen to make use

¹*"Gliding an Image", India To-day, 15 Apl. 1982, pp. 87-8.*

²*Horst Hartman, op. cit., pp. 318-19.*

of the opportunity to put pressure on the party to part ways with the RSS.

The Delhi poll seemed to have nearly precipitated a crisis in the party. It was as if it had fallen between two stools. To emerge as a national alternative, it had, to cut itself loose from some of its ancient moorings and this evidently made its orthodox followers unhappy. Yet, the BJP is nowhere near its goal of transforming itself into a modern, secular, national alternative to the Congress (I).

Vajpayee was honest enough to concede at his news conference in Delhi on 15 February that the BJP might not be able to emerge as a national alternative to the Congress (I) until 1985, though the national executive had (in his absence) adopted a resolution claiming that the party had clearly emerged as the only national alternative to the ruling party." But the BJP chief conceded the need for broadbasing the party and exploring the possibilities of electoral understanding and adjustments with other opposition parties to meet the Congress (I) challenge.

The national executive also adopted a resolution which expressed concern over the growth of communal tension in the country and urged all members to do all they could to fight communalism. The resolution was in conformity with the BJP's claim to be a secular party which does not discriminate against any Indian citizen on the ground of religion or caste. It also makes sense in the context of the party's attempt to secure the support of the minorities. But in the present circumstances it will not be too off the mark to see in this resolution an endorsement of A.B. Vajpayee's general line and his handling of the elections in Delhi.

"This, however, raises more questions than it answers. Does it mean, for example, that the party is reconciled to a parting of ways with the RSS? Does it believe that it can forge ahead without the support of the RSS? Can it on its own retain the support base the RSS has provided it so far? Or alternatively, is all this a mere facade behind which the old link with the RSS will be preserved and even strengthened?

'And what about the RSS itself? Is it prepared for a final break with the BJP? Has it reversed its previous view that in order to promote its objective of Hindu nationhood, it needs a political platform? Was the refusal of a large number of RSS cadres to support BJP nominees a case of sulks or of an expression of the organisation's claim that it is not a political body? Who took the decision? Mr. Deoras, the RSS chief, or local shakha organisers? Was there a decision at all? Or was every RSS volunteer allowed to decide for

himself? Or is the RSS trying to widen its options? Does it find Mrs Gandhi's approach to Pakistan more acceptable than A.B. Vajpayee's?¹

IV. Leftist Parties

SOCIALIST PARTIES

The Praja Socialist Party (PSP). After the 1936-37 elections the Congress Socialists opposed the very idea of accepting office. The socialists worked within the Congress till 1947. At Kanpur convention of that year, the word 'Congress' was dropped, as it was felt that with the approaching freedom, more emphasis should be laid on Socialism than on Congress unity. This convention also drew a fine distinction between democratic socialism and totalitarian Communism. After the Nasik Conference they broke away from the Congress. In the Constituent Assembly they pleaded for the establishment of a 'Socialist Republic', and raised the demand for ending landlordism without compensation. Before the general elections the Socialist Party and the Kisan Mazdoor Praja Party (which had been formed by Acharya Kriplani and others who had left the Congress) joined hands in fighting elections. Their candidates got 10.5% votes but secured only 12 seats in the Lok Sabha.

The Party believed in a planned economic development of the country. If economic planning was to be the instrument of ushering in democratic socialist society, the emphasis of planning must be primarily at the base and not at the apex. District administration which is close to the people and has democratic foundations was to be the principal unit of economic planning. Under its directions, integrated land reforms were to be implemented as time-bound programme. It was to be closely connected with development plans so that there was effective co-ordination between land reforms and reorganisation. Credit and technical assistance was to proceed hand in hand. Credit was to be governed by the needs as well as by the expanding capacity to use, not by status and property. In giving assistance rehabilitation of the neglected and down-trodden sections of the society was to be the primary consideration. In developmental activities panchayats were to play a significant role, as the organs of service and authority. The Party laid special emphasis on regional development and planning was to be so oriented that there was full utilization of

¹Girilal Jain, '*Muslims, Congress (I), and BJP*-' Times of India, 16 Feb. 1983.

special resources, aptitudes and opportunities in different regions. In locating State and aided industrial enterprises, the present imbalance between various regions was to be corrected. While concentration of ownership in agriculture, industry and commerce was to be prevented, every encouragement was to be given to small and medium enterprises. The nationalised sector was to subserve the needs of the public and of co-operative producers.

Samyukta Socialist Party (SSP). After Ashoka Mehta's exit the two wings of the divided socialist movement drew closer together and a new reunited party, named the Samyukta Socialist Party, was formed. The reunification kindled new hopes, and held out the prospect of a wider consolidation of the non-communist progressive forces. It imparted new vigour to the working class and peasant movements. It also strengthened the legislative wing of the Party. But, unfortunately, the newly achieved unity of the socialists received a setback when a section of the former PSP parted company with the reunited party. The departure of these friends was deeply regretted by the SSP. These PSP leaders denounced the SSP's policy of seeking electoral adjustments with other opposition parties. The SSP, however, did not allow these destructive tactics of the PSP leaders to deflect it from its political course. It was well aware that no single party was in a position to defeat the Congress by itself and so it did not reject opportunities for opposition understanding in the larger national interest. It hoped to pursue even more vigorously, after the election, the political line of uniting the socialist elements within one single organisation, of confederating with like-minded forces, and of cooperating with other opposition parties in providing alternative government, pledged to the carrying out of a specific and time-bound people's programme.

With the object of liquidating all relics of imperialist-bureaucratic system and establishing full democracy, the SSP wanted to introduce the following changes : (a) The replacement of the system of indirect elections to district panchayats by a system of direct elections. (b) Abolition of the post of the district collector and the transfer of all his functions to the elected district council. (c) District councils, municipalities and panchayats will have their status defined in the Constitution itself. (d) Ownership and management of appropriate socialised industries shall vest in local bodies. (e) State Governments and municipalities shall be entitled to regulate the prices of urban lands. Ownership of these will vest in municipalities and

¹Ramdas G. Bhatkal *Political Alternatives in India*, p.35.

Government, which shall prepare schemes for town planning, cheap housing, etc. (f) Municipalisation of urban housing in such a manner that no person shall be allowed to own more than one house.¹

COMMUNIST PARTIES

Communist Party of India (CPI). The Party was organised in 1924, but it remained an unlawful organisation till 1943. Its constitution, though drafted in 1931, was adopted by the first open session of the Party Congress in 1943, when it had ceased to be an unlawful body. The ban was actually removed when the leading members of the organisation had declared their support to the Government in the prosecution of the war. Upto June 1941 when Russia was attacked by Germany, the Communists dubbed the war as "imperialist", but later on it was declared as 'People's War'. The Party's support to the war effort and opposition to the 'Quit India' movement carried on by the Congress was not appreciated by the nationalist opinion in the country. It was really a 'Himalyan Blunder' on the part of the Party and its action was suicidal in so far as the Party became unpopular with the people, because of its opposition to the national movement. But after the war the Party made good use of the prevailing distress resulting from inflation and shortages to whip up the workers' discontent and gain strength for itself by leading them to frequent strikes. When the National Government took over, the Communists carried on their disruptive activities in W. Bengal, Madras and Telangana on a large scale.

With the coming of Congress Party rule after independence and the advent of adult franchise elections, the way was opened for transformation from conspiratorial clique to mass party. This has not quite happened, in the late 1940s and again in the late 1960s many party leaders were drawn away from the dreary grind of open organizational endeavour and the distasteful responsibility of parliamentary combat towards the thrills of clandestine struggle with an admixture of terrorist violence. 'Moreover, although the party did grow in membership and support, it did not find it easy to move with success very far away from its main homes ; West Bengal (more especially, the Calcutta region), composed in equal parts of traditions of political radicalism and deep social frustrations; Kerala, where 'core' Congress Party had never been strong and where literacy, density, and unemployment were high ; Andhra Pradesh where sections of the peasantry

¹See R.Chandidas et al, *India Votes*, pp. 290-97.

had been caught at the right moment by a judicious mixture of caste appeal and anti-landlord uprising.¹

Under the title 'Why Communists?' S.G. Sardesai said: 'The struggle against communalism and casteism cannot and will not succeed unless it is based on the people's struggle against foreign and Indian monopoly capital and landlordism. The latter struggle is not only the most powerful weapon, but an indispensable weapon in the struggle against communalism and casteism.... No mass movement and no force in India fights as doggedly and aggressively against communalism as the working class movement, the trade union movement. No section of our people is as much free from the communal virus as the working class. Muslims, who constitute the second biggest community in India and occupy a distinctive place in our national life, have to be guaranteed full protection in regard to their specific cultural, social and religious rights. The real test of a secular democracy lies in its attitude to minorities. It is an unfortunate fact that in India today there are certain reactionary, orthodox and revivalist elements belonging to the majority community who are seeking to reduce Muslims to the position of second rate citizens.'

During the eleventh Congress of the Party held at Bhatinda (Punjab) in March 1978, the following main issues were discussed: (i) CPI's role in building up left and democratic unity in the country; and (ii) to bring unity among the communist parties, even though the differences were sharper. The Congress also admitted that it was a mistake on the part of the Party to have supported the emergency. However, the attempt of the CPI, after the split of the sixties, to score marginal gains over CPI (M) in Kerala and West Bengal had from the very start been a major factor in derailing it from consistent ideological and political positions. More than any other factor, the questionable deals it entered into with the ruling Congress party in the two States had gradually eroded its identity and credibility and compromised its capacity for political initiative and independent action. The CPI leaders, in the process had acquired a mode of living and a style of politics without a semblance of the spirit of genuine socialist radicalism. Their ideological pretences and pontifications no longer impressed and were not only unconvincing but pathetic.²

Commenting on the role of the Communists, a noted political commentator and a former communist observed: 'The Communists in India—as in any other country—are a band of Trojan horses pro-

¹Myron Weiner, *op. cit.*, p. 29.

²Balraj Madhok, 'CPI's Ideological Gyration', *Indian Express*, 14 March, 1977

ected by democratic norms, but not restrained by them. They always try to subvert constitutionally established and duly elected regimes. The recent veiled attacks on Mrs. Gandhi by the Communists are forewarnings of the shape of thing to come. Fortunately, their sinister significance has not been lost on her and some of her party men. In her recent public statements the Prime Minister has severely criticised the Communists for their anti-Congress activities, past and present.¹

The review report presented at the 12th Congress (held at Varanasi) prepared by the national council said the party must stand against the "anti-democratic and anti-people policies" of the Congress (I) and at the same time it would under no circumstances have any alliance with the "reactionary and communal forces" represented by the RSS and the BJP. The review has expressed its disappointment at the slow pace of forging the Left and Democratic Alliance. It blamed the shifting attitude of the CPM in this regard. The Party Congress approved the 'middle course'. This placed the CPI between the Congress (I) and the CPM on critical political issues, and committed the Party to support the government's foreign policy but oppose its domestic policies. The line characterised the BJP as the spearhead of right reaction and sought to build a left and democratic alternative which hinged on unity with CPM. But at the same time the new line demarcated the CPI from the CPM more sharply than at the last Congress.

Communist Party Marxist (CPM). The Sino-Indian war found many party-men torn in loyalty between nationalism and sympathy for a major communist country. The result was split in the party in 1964 and the formation of the CPM. Any hopes among a few centrist leaders that the breach might be healed were dashed by mutual recriminations, court struggles about property, and the still dominant position of Mrs. Gandhi's Congress after the party's split. By maintaining and enhancing friendly relations with Moscow, by refraining from hostile postures towards Peking, above all by offering electoral collaboration to those communists who would support certain radical measures of domestic policy, Mrs. Gandhi's party ensured the cooperation of the CPI and secured the continuing disunity of the best organised parts of the opposition to the left of her.²

The CPM had its stronghold in West Bengal. After the Lok Sabha election in 1977, Party's central committee at the end of its meeting in New Delhi (in November) continued to believe that the

¹Satindra Singh, 'The Communists', *Illustrated Weekly*, 9 Jan., 1977, p. 15.

²Myron Weiner, *op. cit.* pp. 29-30.

danger to democracy came from the Congress ; so "the line of unity against the Congress" was to be maintained. On this basis the Party was prepared to join hands with the Janata in the six States, where Assembly elections were due early in 1978. The exact shape of the alliance was to be decided later. Its opponents, chiefly the CPI and the more radical leftist groups, repeatedly criticised the CPM for loyally supporting the Janata at the Centre while pretending to be its independent critic. If the CPM was convinced, as its pronouncements suggested, that the Janata represented the same class interests as the Congress, how could it regard it worthwhile to support the former as a guarantor of the freedoms the Congress had taken away during the emergency ? This placed the Party in an ambiguous position.

But in the first quarter of 1978 the CPM formalised a new approach in a three-tier 'tactical line' which provided for: (i) the widest unity in action where necessary and possible with the Congress (I) against the anti-democratic 'core' of the Janata Party, or with the Janata Party against the anti-democratic 'core' of the Congress (I)—for democratic rights, (ii) middle range 'unity in action', hopefully crystallising in a programmatic 'left and democratic unity' which would exclude what would emerge as the diehard reactionary cores in the two Congresses and the Janata Party (as well as, presumably, in the regional parties like the all-India Anna DMK, the Kashmir National Conference or the Akali Party) ; and (iii) the still narrower range 'unity for discussion' for ideological classification (crystallising, hopefully, in limited ideological agreement) among Indian communists (including the CPM, the CPI and the various Maoist communist factions).¹

But only a few days earlier, the CPM General Secretary, E.M.S. Namboodripad ruled out CPI-CPM unity in the face of Dange line. However, in April the chances of cooperation between the two parties seemed better than ever before. The leaderships of both the parties could no longer ignore the overwhelming sentiment in their respective rank and file in favour of cooperation. Pressures had built up within the CPM to get the Party to adopt a hard stance towards the Janata Party. The CPI had also admitted its mistake in supporting the emergency. A tilt towards the Soviet Union as against its traditional policy of remaining equi-distant from Moscow and

¹Arun Bose, '*Indian Communist Parties I-Crisis of Political Management*', *Times of India*, 18 Apl., 1978.

Beijing was a distinct feature of the draft-political resolution adopted by the CPM central committee in November, 1981. While being outspokenly pro-Soviet, the document was critical of Chinese foreign policy. There were fewer references to China than to the USSR. There was no praise for Beijing even though its socialist character was repeatedly emphasised.

'Internationally', US "imperialism" had been, as before, identified as the main threat to world peace and the common man's struggle against oppression. Exposing "contradictions" in the capitalist camp, it highlights the spate of anti-war protests in the Western countries. In this context, the CPM regrets that there has been no change in China's foreign policy as part of its efforts to "correct the grave mistakes and distortions of the cultural revolution period." The latest thinking in the leadership about the need for joining hands with even Mrs. Gandhi on broad international issues is reflected in the document when it talks about building a broad base in the country for "resistance" against the international configuration of imperialist and socialist forces." 'The "changed circumstances" on the domestic front have been discussed extensively. The document says: "Today, the party which imposed emergency and one-party dictatorial rule on the country in 1975 is again back in power. The confrontation between the ruling party and the people now takes place under changed conditions."¹

CPM leaders tried to explain away the party's fall from power in Kerala by making a vague distinction between "anti-authoritarian" and "democratic" forces. This enabled the CPM to argue that the Congress (S) was not truly democratic, though it was anti-authoritarian, and that it was, therefore, not particularly surprising that it chose to wreck the "left and democratic" alliance in Kerala. The distinction also served the purpose of "protecting" the CPM's national strategy of promoting "left and democratic" unity. But this absurd word play could not hide the twin facts that the CPM's main aim is to forge anti-Congress (I) alliance with whatever party is willing to join it and that the strategy contained the risk of sudden desertion as in Kerala.

What is really significant about the deliberations at Vijaywada is the mandate the party leadership received to continue the transformation of the CPM from a militant organisation cast in the Stalinist mould to a 'party of order' and compromise. The necessity or validity

¹Sivdas Banerjee, 'CPM Abandons Equidistance', Times of India, 15 Dec., 1981.

of such a transformation was not made explicit at Vijaywada. But that does not change the fact. The CPM has not been influenced by 'Eurocommunism'. Its evolution has essentially been the product of Indian conditions—the facts that India is a functioning democracy and that the state is strong enough to resist any attempt at a violent revolution. And yet the CPM has been gravitating towards some of those perspectives that define Eurocommunism as a specific current in the international workers' movement.

'The actual direction the CPM's activity has taken in West Bengal, Tripura and Kerala conforms fully with this orientation. Whenever the possibility arose, the party was not averse to sharing power with 'bourgeois' anti-authoritarian parties/forces, nor to giving up its earlier insistence on a thoroughgoing programme of reforms. It has been flexible enough to adopt a programme that is even less radical than Mr. Mitterand's in France. For instance, in West Bengal, where it holds a hegemonic position in the Left Front, it not only dropped its old demand for the takeover of foreign and monopoly capital but actually made vigorous efforts to attract it.¹

The Vijayawada congress reiterated the anti-authoritarian front perspective but, unlike the preceding congress, defined no specific programme or tasks to be undertaken by such a front. On organisational matters, too, the CPM has tended to adopt an approach that perhaps for purely pragmatic considerations is not as rigid as it was in the past. For instance, for reasons of expediency, the CPM leadership has willynilly tolerated a certain amount of localism, e.g. in West Bengal, although that involves a definite departure from Stalinist norms of party organisation. 'Thus while the revision of the CPM's political-ideological and organisational principles has so far had an extremely limited and marginal character, in practice the party has become much more 'flexible'. For instance, it has little hesitation in including the Italian communist party among the list of fraternal parties. Over the years, the CPM has changed from being a trenchant critic of the idea of peaceful coexistence (between socialism and imperialist capitalism) to a defender of detente.²

'The party has, equally significantly, dropped all the old rhetoric about sabotaging the Constitution 'from within'. Today it explicitly defends the basic structure of the Constitution, and calls for a fight against the subordination of the judiciary to the executive. How long the CPM can continue to survive and grow with the unreconciled

¹Myron Weiner, *op. cit.*, pp., 29-30.

²Praful Bidwai, 'I-Party of Gradual Reform', Times of India, 26 Feb. 1982.

disjunction between its theory and practice is of course difficult to say. Obviously it cannot do so indefinitely. What the Vijayawada congress showed was that the CPM leadership is not unaware of all this. But while it is reluctant to undertake a major reconciliation, the congress has given it the mandate to begin the process, albeit cautiously.¹

All India Communist Party (AICP). Early in 1981, there was another split in the CPI. The first Congress of the newly formed party was held at Meerut on 13 March. The General Secretary, Roza Deshpande, addressing a Press conference referred to the historical background of the new Party and said the AICP had come into being to save the communist movement in India. She said the leadership of the CPI, because of its opposition to Smt. Gandhi, had aligned with such forces as had helped in the process of destabilisation leading to the liquidation of the Party. She said the charge levelled against her party by the CPI that it was playing second fiddle to Smt. Indira Gandhi would not deter the AICP from fulfilling its historic task. The AICP firmly believed that no country could march to socialism without freedom, integrity and democracy. The monopolists, obscurantists and other reactionary forces posed a threat to democracy.

V. Other Parties

'In any democracy respecting the right of dissent and diversity of life, minor parties are an inevitable development and have a definite influence and impact on its politics. In Western democracies 'minor parties might be said to condition and modify major parties somewhat as the habitat of an organism determines its characteristics.' In a vast society composed of numerous groups as India, the growth of minor parties is naturally proliferous. Many minor parties are the products of social reaction against political relegation or privation. The Congress minor parties have lacked the elements of viability to be independent and therefore they either re-embraced the parent organization or merged with other parties. During the dominance of the Congress in Maharashtra, the Peasants and Workers Part (PWP) for years functioned as a constitutional opposition in the legislature and a popular rival to the Congress outside. The Maharashtra Gomatank Party was strong enough to give a stable government to the people of Goa and easily thwarted all powerful moves including those

¹Praful Bidwai, 'II-CPM's Politics at Odds with Theory' *Times of India*, 27 Feb. 1982.

of the Congress to undermine its supremacy.¹

However, all the parties, being discussed in this section, have not been minor ; some of them have been categorised as medium, for example, the Bhartiya Kranti Dal (BKD), the DMK and Akali Dal, the Samyukta Maharashtra Samiti, etc. From another viewpoint, most of the minor and medium parties, BKD excluded, have been communal and regional. Among the communal parties, the prominent have been the Hindu Mahasabha, Ram Rajya Parishad, the Muslim League, the Muslim Majlis, the Republican Party of India (RPI) and the Akali Dal. The two most important regional parties even at present are the DMK, AIDMK, and the Akali Dal. The Samyukta Maharashtra Samiti (SMS) was formed in 1956 and in the election held next year, it won 128 Assembly and 23 Parliamentary seats. The electoral outcome was regarded as a verdict of the people in support of its objective and as a plebiscite nullifying the bi-lingual set-up of Bombay. Similarly, the Mahagujarat Janata Parishad made a strong demand for a unilingual Gujarat by agitational means. In the 1957 election, it won 30 seats in the State Assembly and 5 in the Lok Sabha. After the formation of the separate States of Maharashtra and Gujarat, both the parties lost their importance and went out of existence.

‘The medium parties of the religio-centric group and the secessionist group have a strong social base processed through the vicissitudes of the last several decades. While the fissiparous tendency inherent in society has invariably influenced the fission of almost every party, its dominant insular behaviour has forced the medium parties more than any others to remain, factually, ‘communal’ despite their open membership and adherence to all-embracing ideologies. The social isolation of the RPI is the worst type of communalism for which the vaunting secularists would not suggest any legislative remedy....The federal structure of the Indian polity which today is almost entirely eroded by the monolithic prevalence of the Congress and the vassal submission of the states, can be saved and strengthened if an adequate number of viable medium parties attain durable institutional importance.’²

The Bhartiya Kranti Dal (BKD). The BKD was formed after the general election of 1967, by those Congress leaders, who had left the parent organisation either before or after the election. Among its

¹ N. Sadasivan, *op. cit.*, pp. 115-16.

² *Ibid.*, pp. 145-47.

founders, the prominent leaders were : Charan Singh, U.P. Chief Minister, Chief Ministers of Bihar and West Bengal, Kumbharam Arya of Rajasthan, etc. The declared objects of the Party were : democracy, nationalism, secularism, socialism and international cooperation. The 1971 election manifesto included the following : treading, by and large, the path of Mahatma Gandhi, abolition of caste system, clean and efficient administration, socialism as an extension of democratic principle, agricultural development, industrial economy based primarily on small decentralised units, presidential system to remove instability, and a foreign policy aiming at eliminating exploitation and promoting world order.

It was a national organisation in the sense that it had its network in three major states of the Indian Union, namely Uttar Pradesh, Bihar and Rajasthan and also had some representation in the Parliament. It was also a secular organisation as it had no attachment with any particular religion or caste of the country. But from the ideological point of view, it was a rightist party, because it opposed increasing State control over the economic life of the people. In this sense, the social and economic philosophy of this party very much resembled the politics and programmes of the Swatantra and Jana Sangh parties. However, there is a point of difference between the BKD and the other two rightist parties. While it laid special stress on the agrarian spheres of national economy, the other two were very much concerned with the industrial aspects of the national economy.

Others. Among other organisations, there is still the RSS, about which we have said in the beginning of the BJP. The Hindu Mahasabha (founded in 1916) was opposed to the system of separate electorates and weightage for Muslims. It stood for Hindu 'Rashtraved' and a unitary constitution. There was also the Ram Rajya Parishad, which had been founded by Swami Karpatriji. It had very little following and a very short life in the fifties. Another organisation was formed for promoting the interests of the depressed classes (later called scheduled castes). B R. Ambedkar organised in 1936 the Independent Labour Party, exclusively for the depressed classes, though it was thrown open to all communities at the request of his friends. In 1942, he converted the Party into Scheduled Castes Federation (SCF) of India. The SCF and the Socialist Party of Ashoka Mehta entered into an election alliance in 1951. After having been defeated in a reserved constituency by the votes of the non-scheduled castes, Ambedkar realised the futility of the reservation and the ineffectiveness of the SCF in safeguarding the interests of the downtrodden. He, therefore,

decided by August 1955 to dissolve the SCF and to set up in its place, a new national party. Meanwhile, relations between Ambedkar and P.N. Rajbhoj, then general secretary of the SCF deteriorated. In May 1955 the former severed his relations with the SCF ; Ambedkar formed the new party, called the Republican Party of India, before his death.

Republican Party of India (RPI). The RPI had faith in parliamentary democracy and secularism. Its 1967 election manifesto included the following : development of agriculture by providing remunerative prices, creating a buffer stock and extension of credit facilities ; mixed economy according to needs ; check on the growth of population, uplift of weaker sections ; resolving the problem of linguism by settling boundary disputes on the basis of language and development of Hindi as a link language. The RPI (Gaikwad Group) allied itself with the Congress to fight the 1967 elections in Maharashtra. In a couple of years, on account of the differences between Gaikwad and Khobaragade, the party was split into two camps. The Gaikwad faction removed Khobaragade from the general secretaryship in August 1970 and Khobaragade in a counter-move relieved his adversary of his presidential powers and functions on 20 September 1970. The sixth All-India Conference of the RPI was separately but simultaneously, held by both groups in Nagpur in October 1970, at which they resorted to expelling each other from the party. In the death of Gaikwad on 29 December 1971, his RPI suffered a serious setback.¹

The Muslim League. After the partition, the League lost its importance, but it continued to function in Kerala, where it has been able to maintain its hold as well as its separate existence. The reason for this is not far to seek ; no party has been able to gain majority in that State without the support of the League. Before the first general election the PSP and the League entered into an alliance. After the second general election, the CPI was able to form its ministry ; but shortly afterwards all the opposition parties including the League carried on a movement for its ouster and they succeeded. Later, the Congress broke its alignment with the League on the ground of its being a communal organisation. In the 1967 general election the League won 14 seats in the State Assembly having 133 seats in all. Before the election of 1971, the Congress and the League again adopted a policy of cooperation. Some of the League leaders again endeavoured to revive it in the form of an all India body and it was

¹*Ibid.*, p, 146,

organised in many places, but without any success in the elections.

Majlis-e- Mushawarat. It was constituted "to save the Muslims from the tentacles of the Jana Sangh-cum-RSS octopus, which was eager to catch the minorities with its long arms, bring them close to its bosom and consume them." The immediate reason for the formation of the Mushawarat was the horror caused by the communal riots of Jamshedpur and Rourkela in 1964. It was on the initiative of Maulana S. Abdul Hasan Ali Nadvi, a prominent divine of the Muslim community, and Dr. S. Mahmood, a former Member of Parliament, that a convention of the Muslims was convened at Lucknow on 8-9 August 1964, to review the situation arising out of communal riots and to devise ways and means to check the increasing influence of the communal organisations like the Jana Sangh and the RSS which were alleged to have been behind all the communal disturbances in the country. It was attended by the representatives of almost all the important Muslim organisations as well as prominent Muslim leaders from different parts of the country. The Convention took stock of the situation and expressed grave concern over the alleged anti-Muslim policies and activities of the Jana Sangh and the RSS. It also charged the government of failure to establish peace and order in the country.

The Mushawarat felt that Muslims should enter the political arena directly and should try to send their representatives to the legislatures in the maximum possible number ; but the all-India body was not in a position to convert itself into a political party, since one of its units, the Jamat-e-Islami was deadly against taking active part in politics and had no faith in parliamentary democracy. The U.P. unit, therefore, decided to convert itself into a political party and passed the following resolution on 3 June 1968, which marked the birth of the Muslim Majlis in U.P. "India is a democratic country and the formation of Government here depends on the result of elections. Muslims cannot keep themselves aloof from this democratic process....It is necessary that Muslims should form a permanent political party of their own. This function cannot be discharged by the Muslim Majlis-e-Mushawarat as it is a federation of several parties and individuals some of whom may have a different ideology about participation in elections.. The U.P. State Muslim Majlis-e-Mushawarat is of the opinion that it is necessary in their interest that Muslims should take active part in politics. It, therefore, resolves to designate itself as "Muslim Majlis."

The aims and objectives of the Muslim Majlis are almost similar to those of the Mushawarat with the basic difference that the member-

ship of the Majlis, like other political parties of the country, is open to all the citizens of India, irrespective of their caste, colour and creed.¹ Its programme, as incorporated in 1967 election manifesto, included the following : (i) reform of the education system, by including moral education but by keeping the syllabus secular particularly at the primary stage ; (ii) adoption of the system of proportional representation in place of the existing system ; (iii) welfare state ; (iv) safeguards for personal laws ; (v) preservation of the mother language ; (vi) constitution of a minorities panel ; (vii) protection of the minority educational institutions, etc.

The Akali Dal. It is the organisation of the Sikhs, who had been demanding the creation of a Punjabi Suba (State). It is, therefore, both communal and regional. Like the Muslim League, it also raised slogans for protecting the interests and rights of the Sikhs. For long Master Tara Singh remained its undisputed leader. During the first general election (1951-52) its candidates were defeated by their Congress rivals. When the Union Government reorganised the States on a linguistic basis in 1956, Punjab was retained as a bilingual State. Akalis alleged that a Punjabi-speaking State was not conceded simply because in it Sikhs would have been 55 per cent against 45 per cent Hindus. The Akalis launched several *morchas* (passive resistance movements) for a Punjabi-speaking State. In 1966 a Punjabi-speaking State was carved, but its capital, Chandigarh, was constituted into a Union Territory.

The (Shiromani) Akali Dal manifesto issued in February 1977 included the following : (i) re-appraisal of the Constitution with a view to (a) imparting it a real federal character and (b) the appointment of a permanent autonomous commission at the Central and State levels to supervise protection of the rights of national, social, religious, cultural and linguistic minorities ; (2) restoration of civil liberties, democratic and trade union rights ; (3) modernisation of agriculture, remunerative prices for farm products ; (4) land reforms and measures to remove disparity, increase agricultural production and distribute all land ; (5) public sector industries to be set up in such a manner as to remove the regional imbalance ; (6) all foreign interests in the country to be nationalised, etc.

The Dravida Munnetra Kazhgam (DMK). It originated from the justice party, founded in 1916. As a liberal force the party held that British rule in India was a divine dispensation. The imposition of

¹Subhash C. Kashyap, *op. cit.*, pp. 318-19

Hindi created a cultural consciousness in the minds of the Dravidian people. Their leader, the Periyar, in his enthusiasm to reform the society and to liberate it from the position of serfdom to which, according to him, it had been relegated by the Brahmins, started talking loudly of the Dravidian culture and attacked Hinduism as a religion imposed upon the Tamil-speaking people. At the Salem conference of the Party in 1942, C.N. Annadurai proposed a policy more in accord with the nationalist sentiment and renaming the Party as Dravida Kazhgam Association (DKA). This led to a split in 1949, when Anna and his followers gave up the DK mainstream and organised themselves into a more effective political organisation—the DMK (Progressive Dravida Association). The DMK boycotted the parliamentary institutions till 1957, when it contested elections for the first time. It won 15 Assembly and 2 Lok Sabha seats. It has a democratic constitution and an organisation spread to the villages. Its membership was mostly young, educated and non-traditional. It also attracted to its fold most of the Tamil writers, particularly those with a modern and scientific outlook. At the time of its inception, it stood for : (1) social reform, (2) propagation of Tamil language and culture amongst the Tamilians ; (3) democracy ; (4) socialism through constitutional means ; and (5) establishment of a sovereign Dravid Nadu, independent of Indian suzerainty. But it gave up its demand for Dravid Nadu in 1963 ; and adopted the objective of State autonomy under the Indian Union.

Anna DMK (or AIADMK). After the death of Annadurai, M.G. Ramchandran and his followers decided to form a new party, called the Anna DMK. It issued its manifesto in 1976. It declares that the integrity of the Indian sub continent is the crux of the party's political policies. But this declaration was quickly hedged in by several qualifications—for instance that the Constitution is not a fully federal one because all powers lie gathered at the Centre. It is the ADMK's objective, the manifesto says, to have them decentralized and ensure adequate powers to the States. It also supports the thesis that under the existing Constitution the States do not really have the powers to function for the welfare of the people ; and that the Constitution does not reflect the times nor is it adequate to meet the needs arising from the "new situation" in the country since 1967. The one categorical statement amidst all this ambivalence is that the party is not for separation. But even that is part of a larger and questionable slogan. "We shall not stay bound, we shall not seek separation ; we shall unite as equals."

On the other basic issue of language, the ADMK is less equivocal like its parent. 'The ADMK stands in the vanguard of the opposition' to Hindi as the country's sole official language. The regional language should be the official language in each State and English should be the link language between the different States. The manifesto adds questionably—that "so far as the Indian subcontinent is concerned the development of one language should not be at the cost of destruction of others." M.G. Ramchandran, founder and general secretary of the Party said in September 1976 that his party's constitution had been amended so as to enable it to function at the national level.

In February 1978, the tactics of the Dravida Munnetra Kazhagam and the All-India Anna DMK for the Assembly elections in neighbouring Andhra Pradesh and Karnataka showed that they were striving hard for each other's political isolation. The DMK maintained a friendly attitude towards the Janata Party and offered it support in Karnataka and Andhra in return for the allotment of six seats in Karnataka and three in Andhra. But the Janata Party was not keen on accepting the offer, principally because it knew that the AIADMK was better placed in both the States. The AIADMK, on its part, wanted to maintain cordial relations with the Janata government at the Centre. This was obvious when, immediately after the Lok Sabha elections, the AIADMK leader, M.G. Ramchandran, flew to New Delhi to meet the Prime Minister and assure him of the full support of his 19 member parliamentary group. At that time, the support of every member of Parliament was important and, naturally, the Janata leadership responded enthusiastically to the gesture.

Telegu Desam and Kranti Ranga. The Telegu Desam (TDP), led by a matinee idol, N.T. Rama Rao (NTR), a nascent regional party of Andhra Pradesh, laid low the once mighty Congress (I) with a massive thundering blow. NTR openly campaigned on a regional basis to rehabilitate "Andhra's selfrespect" and regional interests. Regionalism, a malignant force, was revived by the victory of the TDP. Its president and new chief minister, read out the directives which would govern the conduct of the legislators vis-a-vis the administration and their duties as people's representatives.

The commandments are : (1) The TDP legislators should maintain close and constant relations with the people. (2) They should not interfere in administrative matters like transfers and promotions of officials. (3) They should extend full support to the Government's efforts in putting down corruption and providing clean and honest

administration. (4) Felicitations and dinners should not be organised in honour of the Chief Minister or ministers when they go on tour. (5) The legislators should help in curbing selfish elements as, helping the poor and backward classes is the ideal of the TDP. (6) The MLAs should expose those responsible for black marketing, hoarding and such other anti-social elements. (7) They should actively participate in the proceedings of the Assembly and bring people's problems before the House. (8) The legislators should strictly follow the directives issued by the chief whip and whip. (9) They should keep in close touch with the party workers and pursue party programmes with full vigour. (10) The legislators should observe strict discipline, honesty and simplicity. If the party succeeds in implementing these directives, it will set a noble example for other political parties. This will certainly improve the falling standards of politics in the country.

The Telugu Desam president said his Government wanted electoral reforms including audit of funds of political parties to curb money-power in elections. Legislation would be introduced to prevent defections, he said. He renewed his party pledge to provide a good, clean and efficient administration. The emphasis would be on accountability of both leadership and officials for efficiency and time-bound execution of programmes. NTR added that his party did not believe in separation. "We owe allegiance to the constitution and would strengthen the centre to fulfil its responsibilities". Asked why he had launched a regional party, NTR said that he had come to the view that it was the only way to solve the basic problems of the Telugu people. A national party could not comprehend the complexities bedevilling the state. Further, a regional party comprising a compact population could deliver the goods.¹

S. Bangarappa, a former Congressman, who changed his party loyalty several times during the past few years, was the most important leader of Karnataka, who founded the Kranti Ranga Party in the state before the Assembly elections held in January 1983. Abdul Nazeer sal, who has joined the new state ministry, was president of the KRP. The Janata-Kranti Ranga Front won more than hundred seats in a House of two hundred and twenty-one. After the elections, Bangarappa aspired for the post of chief ministership. He was offered the post of deputy chief ministership, but he declined. Later, he accused the Janata Party leadership of conspiring to deny him the chief ministership and said it was betrayal of a pre-poll understanding.

¹Pioneer, 8 Jan. 1983

The executive of the KRP met on 2 March and decided to keep its separate identity, but many of its former supporters and legislators remained in the Janata party, with which the KRP had decided to merge after the elections.

CHAPTER 19

Party Politics and Party System

I. Party Politics : from 1950 to 1962

General Elections, 1951-52. After the attainment of independence Congress ministries remained in office, both at the Centre and in the States. Leaders of all the political parties and prominent non-party-men participated in Constitution-making, but the final shape of the Constitution accorded with the aims and principles of the Congress. For the successful conduct of the Union and State Governments, framing of the Constitution, rehabilitation of a vast number of displaced persons, etc. people gave due credit to the Congress Party and its leaders as reflected in their victory in the elections. Out of 489 seats in the Lok Sabha, the Congress won 362 seats, though it obtained only 44.40% votes in the country. In the same way out of 3,283 total number of seats in the Legislative Assemblies of the States, the Congress secured 2,247 seats and clear majority in 18 States.

From 1951-52 to 1957 General Elections. Various parties tried to strengthen their positions in between the two general elections. But the achievements of Congress Government in different fields enhanced the prestige of the Congress Party, although the opposition parties felt that the support for Congress was decreasing. The First Five-Year Plan launched in 1951 was successfully completed by 1956. The Congress adopted the goal of establishing a "socialist pattern of society." The Imperial Bank and life insurance companies were nationalised and undertakings in the public sector increased in large number. By following an independent foreign policy in respect of Korea, Indo-China, the Suez crisis, etc., the Government of India secured an important place for the country in the affairs of the world. In spite of the fact that discipline in the Party continued to be loose and factional conflicts increased, the Party followed a policy of seeking cooperation of other democratic elements, though without any appreciable success. The reorganisation of States was carried out in 1956, though the problem of bilingual Bombay could not be solved

to the satisfaction of the parties concerned by that time. The Second Five Year Plan was also launched in 1956, and it was widely welcomed.

The Congress, the Praja Socialist Party, the Communist Party of India and the Bharatiya Jan Sangh were recognised as national parties and 19 others as State parties by the Election Commission. The Ram Rajya Parishad and the Hindu Mahasabha were found to have sufficient electoral support in six States and four States respectively and were recognised in those States. The position of different parties in the Lok Sabha and States Legislative Assemblies after the elections of 1957 is shown in the table below :

<i>Name of the Party</i>	<i>Lok Sabha</i>	<i>State Assemblies</i>
Congress	371	1,893
C.P.I.	27	161
Jana Sangh	4	46
P.S.P.	19	195
Other Parties and Independents	73	611
Total	494	2,906

'The results of the 1957 elections did not change the basic political complexion of India, at either national or State levels. The Congress got 47.66 per cent of the popular vote, and 371 of the 489 seats in the House of the People (the Lok Sabha). It lost between 300 and 400 seats in the State Legislative Assemblies, but it still retained a clear majority in the Assemblies of every State except Kerala and Orissa. In several other States, such as Bombay, Bihar, Uttar Pradesh, and West Bengal its losses were significant, but they were not great enough to challenge the Congress hold on these States. What they did was to put pressure on the Congress to redress the grievances that had led to appreciable attrition in Congress support.'

Between 1957 and 1962. The communist Government in Kerala was dismissed in July 1959, President's rule was imposed and new elections were held. The results were very different from those in 1957, largely because the Congress formed an electoral alliance with the PSP and the Muslim League, and because the policies and

actions of the Communist Government from 1957 to 1959 had alienated many voters. Although the Communists increased their share of the popular vote, yet their membership in the Assembly dropped from 60 to 23, while the Congress won 63 seats, the PSP 20 and the Muslim League 13. On the national scene a new and uncertain factor was introduced by the abrupt change in India's relations with China in 1959 and thereafter, as a result of the ruthless Chinese suppression of the revolt in Tibet, the flight of the Dalai Lama to India, clashes between Indian and Chinese troops along the northern borders on account of China's refusal to accept the McMahon Line as the border between India and China in the North East Frontier Agency area, the building of a road by China across the Aksai Chin region of Laddakh and the stationing of Chinese troops in that area, which India claimed to be a part of its territory.

'The effects of these traumatic events on the elections seemed uncertain. On the one hand, they might lead the Indian voters to rally even more strongly to the support of Nehru and the Congress Government ; on the other, they might lead many voters to turn against leaders who had concealed the facts of the deteriorating relations with China and who seemed impotent to stem the Chinese advances. At any rate, the new and mounting crisis with China was a grim backdrop for the third general elections. At home there seemed to be other reasons for sober re-assessment, such as the rather unsatisfactory results of the Second Five-Year Plan (1956-61) and the greater prominence of caste factors in the selection of candidates and in the election campaign.'¹

Poll Issues Raised by Opposition Parties. A notable event was the birth of the Swatantra Party and its entry into the election battle. Its election manifesto included the following planks: (i) to equip India with an opposition with a clear-cut alternative way; (ii) to provide the common man with food, clothing and shelter, as the primary obligation of government ; (iii) to reorganise, reform and reduce the existing excessive burden of taxes ; (iv) to abolish land taxes except to the extent necessary for maintaining ownership records and to take steps to support an adequate level of agricultural prices ; (v) to ensure the widest possible distribution of industrial ownership ; (vi) to restore the real and effective supremacy of Parliament and the people by abolishing the much boasted Planning Commission, etc.²

¹Norman D. Palmer, *General Elections in India; South Asian Experience*, pp. 158-60.

²*Indian Affairs Record*, Dec. 1961.

The PSP always stressed that the chronic ailments could not be cured unless the commanding heights of the economy were in the hands of the State, unless credit institutions and key industries were nationalised and foreign trade completely taken over by the State. In the absence of these changes, as the capitalists ruled over the economy, even the strictest regulations would fail to set the economy right. The SSP tried to become the party of revolutionary struggle, concretised socialist programme, patriotic fervour, decentralised democracy, and above all, the sword of the oppressed and suppressed humanity. The SSP, while according top priority to the building up of its own strength and the expanding of its mass base at the same time, wanted to adopt a positive attitude towards other parties. In order to bring this about, a united front of democratic forces was needed. The Bhartiya Jana Sangh wanted that Swadeshi should be the basis of our industrial policy. All restrictions on industrial development with indigenous resources should be withdrawn, and help to small and decentralised industries should be given. Undue expansion of public sector in the name of doctrinaire socialism must be halted. Government's administrative expenditure should be drastically reduced. This could not be tolerated, so there was need for a change in Government's fiscal and monetary policies. They should be production-oriented and help capital formation.¹

In the 1962 elections, the Congress came out successful with a nearly 2/3rds majority, securing 361 seats in the Lok Sabha ; percentage of votes polled in favour of its candidates was 44.72. The number of seats won by other parties were : the Communists 29, Swatantra 22, Jana Sangh 14, PSP 12 ; DMK only 1, Socialists 6 other parties 23 and independents 20. In the 12 States where elections were held for Legislative Assemblies, out of a total of 2,842 members elected, the Congress won 1,759. The figures for other parties were : Swatantra 166, Communists 153, PSP 149, Jana Sangh 116, Socialists 59, DMK 50 (all in Madras), other parties 144 and independents, 246.

II. Party Politics : From 1962 to 1976.

Between 1962 and 1967. The 1962 elections were the last of the Nehru era and they were followed by changes which led to the slow erosion of Congress strength without a corresponding increase in strength of any other party of national importance. These changes

¹M.Pattabhiram (ed.) *General Elections in India*, 1967, pp. 54-81.

became more evident only after the traumatic events of the following years, notably the Chinese attack of late 1962 and the Indian reverses, the death of Nehru (in May 1964), the war with Pakistan in 1965, and the bad seasons and economic setbacks of the mid-1960s ; and they were dramatically highlighted in the fourth general elections in 1967. Consequently the campaign preceding the elections was held in an atmosphere of despondency, frustration, and almost continuous agitation.'

In the fourth general elections the main issues were economic and psychological. Almost everyone complained of the food shortage and rising prices. Psychologically, the swing away from the Congress became a major factor in the campaign. Whereas in the past a Congress candidate had a distinct advantage in many States, in the fourth general elections anti-Congress sentiment was very strong and Congress candidates laboured under a special psychological handicap. Even Smt. Gandhi, who had become Prime Minister on the sudden death of Lal Bahadur Shastri, in January 1966, could do little to stem the anti-Congress tide.

Poll Issues. In proclaiming democracy as a way of life, the Congress emphasised not only its central concept of political equality but also its equalitarian implications in social and economic fields. Believing that the state should play an active and dynamic role in planning, guiding and directing the economic development of the country, the Congress placed before the nation the goal of a democratic socialist society. For the realization of its goal, it considered the following as necessary tools : dynamic and growing public sector, co-operative movement, further nationalization of banking and credit institutions, price stabilization, legislation to ensure that labour has a fair deal, provision of new opportunities for work and employment, effective implementation of land reforms, a new deal for agricultural labour, modernization of agriculture and remunerative price to the producers, improvement of forest and cattle wealth.

CPI pointed out that the record of the Congress regime since the last general election had been one of dismal failures almost in every sphere of national life. So the nation needed far-reaching and radical changes in the country's economic as well as political structure. It, therefore, advocated measures for curbing the monopolies, nationalization of banks, closure of speculative markets and exchanges, a people's plan, etc. BJS noted that all sections of the people were caught in a maze of controls and regulations. They were not allowed to breathe freely and contribute their mite towards the pros-

perity of the nation. Its manifesto incorporated the following steps for improvement of country's economy : encouragement to farmers for increasing food production, land reforms with the object that land belonge to the tiller, rationalization of land rents, surplus lands to be distributed to landless agriculturists, minimum wages for agricultural labour, and decentralized economy in place of capital intensive industries.

SSP said that socialism means equality and prosperity. It would achieve the maximum ceiling on expenses through (i) nationalization, (ii) reform of the tax structure, and (iii) elimination of wasteful expenditure. In all industries, interests of the workers and the consumers will be represented and industrialization would be supported by the development of science. Broadly, the main problems were : (1) defence of the country from external attack ; 2) rooting out of lawlessness and violence within the country, which had grown to an extraordinary degree in the preceding months ; and (3) bringing about the economic development in a way that people were not denied the bare essentials of life like food, clothing and shelter.

Election Results

LOK SABHA

<i>Party</i>	<i>No. of seats won</i>	<i>Party</i>	<i>No. of seats won</i>
Congress	285	PSP	13
Jana Sangh	35	SSP	23
Swatantra	44	DMK	25
CPI	23	Other Parties	20
CPM	19	Independents	35
Total No. of Seats 520			

Between 1967 and 1971. Although the Congress secured comfortable majority in the Lok Sabha, yet its position in many States weakened. In some of the States, formerly ruled by the Party, it failed to win majority, though it still retained the status of the largest party. Since no other party, in most of the States, was in a position to form its own ministry, a new experiment of forming coalition governments in many States was resorted to. Thus, for the first time, almost all the important opposition parties got an opportunity to share power

in the States. The fourth General Elections redrew the map of the Indian Union as a mosaic of startling colour contrasts. The Indian citizen saw 'governments of different hues emerging in the North, South, West and East of the country. The political complexion of the government 'varied from extreme left to extreme right'. At the Centre was the Congress Party with a greatly reduced majority in the Parliament.¹

These elections altered the shape of Indian politics. Congress's hegemony in the States was most affected but the disaster did not stop there. In the Lok Sabha Congress lost 65 seats. Eventually, the internal disputes produced a split (in 1969), with the result that Smt. Gandhi found her majority reduced to virtually nil and could remain in power only as a result of the support which she received from parties of left-wing tendencies. But the situation for Congress was far worse in the States, where it received its greatest shock. Bihar, Punjab, West Bengal, Orissa, Madras, and Kerala were all lost.

'While there is little doubt that 1967 represents a major step in the direction of an increasingly competitive polity, it should not be forgotten that even before 1967 the Congress had to contend with very significant and often conclusive challenges to its authority ; and even since 1967 it is still the dominant factor in Indian politics.' The Congress remained at the Centre of the Indian politics in two senses : (1) other parties and factions have developed out of the Congress and articulate their policies and factional strategies around it ; and (2) it occupies the Centre of the ideological spectrum in Indian politics, as a centre party on both sides of which are to be found other parties and factions.²

Opposition leaders, some intellectuals in the country and many foreign political commentators made two notable comments : First, the 1967 elections proved that parliamentary democracy would take deeper roots by giving an opportunity to the opposition parties to take up responsibilities of government in many States and prove their capacity as an alternative to the Congress. Second, the principle of federalism would also be strengthened as the States would be enabled to have more autonomy. Politics in most of the States was characterised by (1) coalition governments, which after operation of 4-5 years proved that they were weak and unstable ; and (2) phenomenal growth of defections (which has been discussed in section V). Great hopes had

¹Indian Foreign Review, 15 March 1967.

²Rajni Kothari, *Politics in India*, p. 175.

been raised among the opponents of the Congress on the formation of non-Congress governments, but their failures dashed all such hopes. One of the essential features of Congress's dominance was the fragmentation of the opposition.¹ A good point about the new politics of the opposition was that there was a substantial increase in its power, as a result of which the monopoly of power by the Congress was broken. In those years it seemed that the two-party system would grow with the strengthening of the opposition parties. The result was the emergence of some balance between the government and the opposition. The dominant Congress Party felt compelled to improve its working and image.

In the early months of 1969, the Congress had two significant victories in the by-elections to the Lok Sabha from two constituencies—one in Madras and the other in Gujarat. An event of much greater importance than the foregoing developments was the Congress split in 1969, on the question of selecting the Congress candidate for the presidential election held that year. Both at the Centre and in the States, the trend towards polarisation seemed to be growing. The nationalisation of banks and the abolition of privy purses of the former princes further widened the gulf between the supporters of the ruling party and the opposition groups, which began their efforts to form an alliance. It was under these circumstances that the Prime Minister got the Lok Sabha dissolved. Elections for the new Lok Sabha and four State Assemblies were announced for March 1971.

Indian National Congress (Ruling Party). Its manifesto said: The moves by the Congress to accelerate the pace of social and economic reforms aroused the opposition of vested interests and their advocates. The alliance of reaction, composed of the Syndicate, Jana Sangh and the Swatantra Party backed by vested interests had been brought into being solely to fight the progressive programmes of the Congress. Its manifesto incorporated the following programme: *Agriculture*: Spread of new technology, a positive programme of agrarian reform, increase in facilities for irrigation and credit, new opportunities for gainful employment. *Industry*: Dominant role of the public sector in industrial development, a proper wage policy, modern methods of management with emphasis on providing participation to workers, private sector to function in a manner consistent with nation's social objectives. *Others*: Ceiling on urban property, effective employment programme, cheap credit for self-employment, transport facilities to be

¹Hanson and Douglas, *India's Democracy*, p. 77.

considerably increased and modernised.

Indian National Congress (Organization). Its manifesto said that the country's economy was in disarray. The stagnation in production, lack of investments, decline in savings, rise in prices, lowering of standard of living and narrowing avenues of employment had created grave crisis of confidence. Its programme included the following : improvement in the condition of the farmers, energising of wells and tubewells, expansion of credit facilities, fair prices for agricultural produce, no import of foodgrains, increased production of agricultural commodities, and quick implementation of land reforms, right to work, expansion of cottage and smallscale industry, creation of special employment fund, cattle and crop insurance, effective programme of animal husbandry.

Swatantra Party. Its manifesto stated that a stable democracy must be based on the sanctity of the constitution, which should not be tampered with. Its programme included the following items : the creation of adequate employment opportunities, drastic reduction in the cost of administration, agriculture as a basic industry to be given an appropriate priority, creation of favourable conditions for a rapid and massive increase in production, encouragement and restoration of competition to combat the growth of monopolies. *B. J. S. manifesto* said that mounting unemployment had created an explosive situation. The other blatant failure of the government was the ever-increasing price spiral. The party was pledged to the creation of an egalitarian society. Its programme included the following : Self sufficiency in food, distribution of all surplus and cultivable wasteland to landless labourers and farmers with uneconomic holdings, land to the tiller, and house for every family, industrial licensing in the expert hands of an autonomous authority in place of politicians, decentralisation of economic authority, autonomous monetary authority, sales tax to be replaced by excise, stoppage of foreign aid, nationalization of foreign banks, making public sector profitable and new deal to wage earners, a Swadeshi Plan and upholding the right to property.

Samyukta Socialist Party. Its manifesto said that the country was at the cross-roads. The evil regime of the Congress (R), the most powerful combination of feudalism, capitalism, corrupt bureaucracy and inefficient leadership would soon end. In the economic sphere, its programme included : radical changes in the agrarian structure, abolition of land revenue, ceiling on family holdings, a national irrigation policy, a national price policy, ceiling on expenditure, share in the management of industries for the labour, greater opportunities

for backward classes.

Praja Socialist Party. Its programme included : a comprehensive and coordinated food policy, remunerative price to the peasants for their agricultural produce, integrated price policy, greater emphasis on cottage industries, agro-industries and labour intensive techniques for increasing employment, a socialist oriented economic plan, enlisting willing and active cooperation of labour, equality in the economic field.

CPI. Its manifesto incorporated the following programme : radical ceiling legislation, distribution of the surplus land, nationalization of monopoly concerns, effective measures to hold the price line, distribution of articles of daily necessities through fair price shops, cheap credit and remunerative prices for the produce of the peasants, adequate wages and house sites free of cost for agricultural workers, and creation of new employment opportunities.

CPI (Marxist). Its manifesto said that in the coming election two combines were facing each other. The Syndicate-Jana Sangh-Swatantra combine represented a reactionary combination. The other combine led by Smt. Indira Gandhi posed to fight against the reactionary alliance of the Syndicate and the Jana-Sangh in the elections. The monopolies aided by government price regulation continued to loot the people and demand high prices for their goods. For the people as a whole, food prices continued to remain high, forcing them to live on starvation diet. Worse still was the fact that the people were rapidly losing their claim to consume what they produced and were forced to allot an ever increasing share of their wealth to satisfy the demands of their foreign creditors. However, the manifesto did not contain any specific programme.

Comment. On economic matters, there was no radical difference in the approach of the various parties ; the difference was in details. For example, all parties, including the Swatantra Party, wished well of the public sector. The PSP had come out with definite preference for a large-scale entry of the public sector in the consumer goods industries. It was of the view that a socialist oriented economic plan necessarily implied a progressive increase in the scope and authority of the public sector. The CPM stood for the abolition of the hegemony of the capitalists and landlords. It proposed nationalization of monopoly concerns and rapid expansion of the public sector to make it decisive in the national economy and its democratization.

Before the elections, the opposition parties had formed a sort of alliance. All the parties adopted, in the main, a single-point pro-

gramme "Remove Indira", against "Remove Poverty" slogan given by Smt. Indira Gandhi. It was for this reason that the election took the form of a referendum.

Lok Sabha Election Result, 1971

<i>Party</i>	<i>No. of seats won</i>	<i>Party</i>	<i>No. of Seats won</i>
Congress (R)	350	PSP	2
Congress (O)	16	SSP	2
Jana Sangh	22	DMK	23
Swatantra	8	Other parties	30
CPI	23	Independents	13
CPM	25		
Total no. declared 515			

The victory of the Congress (R) was so sweeping that in the Karnataka State, where the Congress (O) had been in office, all the 27 Lok Sabha Seats were captured by the Congress (R). In Gujarat, too, which was considered to be a Congress (O) stronghold, the Congress (R) won half the seats. The Congress (O) did not secure a single seat in Kerala and Andhra ; similar was the fate of the Swatantra, Jana Sangh and SSP in those States. In the Punjab as well as other States, the Congress (R) had a splendid success. Old leaders of all opposition parties, excepting the CPM and the Jana Sangh, lost the election for the Lok Sabha. The Chairman of the PSP, M.G. Gore, welcoming the election results remarked that it had ended the "bankrupt politics of the opposition alliance." Former Chairman of the SSP, S.M. Joshi, said that the reason for the great achievement of the Prime Minister and her party was that the Prime Minister had established a close rapport with the poor, downtrodden, women and the minorities. The Congress (O) Chief Minister of Gujarat observed that although the election results were astonishing, yet the formation of a stable government at the Centre would make the path of progress smooth.

Contrary to most predictions, Smt. Gandhi's party scored a sweeping victory in the elections, so much so that its representaion

in the Lok Sabha increased by 130 seats. Only in Gujarat, Kerala, Nagaland, Tamil Nadu and West Bengal it failed to get more than half of the Lok Sabha seats. Thus, the fifth general election gave Smt. Gandhi the 'fresh mandate' that she had sought. Her party virtually secured an impregnable position in the politics of the country ; and this also marked the return of the system of one-party dominance.

Between 1971 and 1977. On account of the crisis in Pakistan which became acute immediately after the fifth general elections and with the beginning of the ruthless actions of the Pakistani troops in East Bengal, Smt. Gandhi had a temporary reprieve from the task of implementing her great pledge to abolish poverty. Her firm leadership in dealing with the many problems created by the conflict with Pakistan, including the presence of millions of refugees from East Bengal in India and the war with Pakistan in December 1971, gave her even greater popular support and power. After India's victory in the Indo-Pak war over the issue of Bangladesh, elections were held for the Legislative Assemblies of most of the States in February-March 1972. The position of the Congress (R) and other parties in the Assemblies of some State as a result of the elections is given in the table on page 487.

Election for the U.P. Legislative Assembly were held in February 1974, when the prices of most essential commodities had reached the peak so far and not only the opposition but the common people had begun criticising openly the ruling Congress. But notwithstanding that, the Congress gained a majority of seats. The votes polled by the main contesting parties were : Congress 32.19%, BKD 21.90%, Jana Sangh 17.11% and the Congress (O) 8.44%. The Congress (R) also won in the elections held at the same time for the Legislative Assemblies of Orissa and Manipur, but the DMK got majority of seats in Pondicherry and the Nagaland National Organisation secured the largest number of seats in Nagaland. A very significant development that took place in April was that eight opposition parties decided to merge. These were : BKD, Swatantra, Utakal Congress, SSP, Muslim Majlis, Democratic Party, Harijan Action Committee and Indian Agricultural Labour Organisation. In a resolution adopted at a meeting of their leaders, the following were accepted as the objectives of the new party : nationalism, democracy, secularism, and prosperity for the masses.

The Legislative Assembly of Gujarat was dissolved in 1974 in response to an organised agitation for this purpose, led by the youth. Fresh election to the Assembly was held in January 1975. No single party could secure majority ; but the Janata Front won 86 seats in a

Election Results. Legislative Assemblies, 1972

State	Total No. of seats	Congress (R)	Congress (O)	Swatantra	Jana Sangh	CPI	CPM	Socialist	Other Parties	Indepen- dents
Andhra Pradesh	287	219	—	2	—	7	1	—	5	53
Assam	114	95	—	1	—	3	—	4	6	5
Gujarat	168	139	16	—	3	1	—	—	—	8
Madhya Pradesh	296	220	—	—	48	3	—	7	—	18
Maharashtra	270	222	—	—	5	2	1	3	12	25
Mysore	216	165	24	—	—	3	—	5	6	15
Punjab	103	66	—	—	—	10	1	—	24	3
Rajasthan	184	145	1	11	8	4	—	4	—	11
W. Bengal	280	216	2	—	—	1	16	—	—	2

house of 182 and the Front was enabled to form the new ministry. Gujarat type agitation was followed in Bihar under the leadership of J.P. Narayan and plans were afoot for launching similar agitations in some other States. Then came the adverse judgment of the Allahabad High Court in the petition filed by Raj Narain, against the election of Smt. Gandhi from Allahabad in 1971. Smt. Gandhi was found guilty of corrupt practices on two counts and she was declared disqualified. However, she was given time to file an appeal, which she did in the Supreme Court.

It was under such circumstances that the Union Government imposed a national emergency on 25 June 1975, and a large number of opposition leaders and workers were put behind the bars. Censorship and other restrictions were placed upon the publication of news. Consequently, all opposition activities virtually came to a stand-still. The Parliament gave its approval to the proclamation of emergency and in 1976, in the absence of opposition, the 42nd amendment was adopted. The Youth Congress, under the leadership of Sanjay Gandhi, attracted a large following. During the emergency, a number of excesses were committed and many innocent persons were subjected to wrongful treatment by the government officers. However, on the advice of the Prime Minister, the Lok Sabha was dissolved on 18 January 1977 by the President and notification for holding new elections in March was issued. The process of normalisation of political condition, conducive to holding a fair poll, started with the release of prominent opposition leaders and relaxation of curbs on the press and political meetings. Several opposition parties decided to merge and form a new party, called the Janata Party.

III. Party Politics : From 1977 to 1983.

POLL ISSUES FOR 1977 LOK SABHA ELECTION

Congress. Its manifesto said that vigorous steps had been taken under the 20-point programme to carry out land reforms, to distribute house sites, to liquidate rural indebtedness, to abolish bonded labour, to enforce minimum wages for agricultural labourers, and to ease the condition of farm workers. These programmes would be pressed forward with even greater vigour. Steps were being taken to bring down prices of essential commodities. Conspicuous luxury in building activities had been curbed and house construction for the low-income and middle-income groups was being stimulated. The Congress was committed to the planned development of towns and cities, as it would be

unwise to allow planned development efforts to be wiped out by a population explosion.

The Congress would continue to give high priority to the growth and development of industries. Workers' participation in industries was one of the cardinal aims of the Congress. Public sector would be made to play a leading role in national development with higher production and expanded services. The Congress was irrevocably committed to land reform leading to peasant ownership. Remunerative prices were a major element in the strategy to raise agricultural productivity. The Congress would endeavour to transfer modern technology to the under-developed rural sector. Considerable investment would continue to be made to strengthen the nation's extensive infrastructure in power, transport and communications.

Janata Party. Its manifesto incorporated a new economic character. It pledged to bring about Gandhian socialism. It affirmed the right to work, which could be realized only with the establishment of an economy in which agriculture and cottage industries would have primacy. Modernization of industry must be based on improved technology, but the only way to steer clear of the evils of capitalism and state capitalism and to ensure full employment and the decentralization of economic power was to follow the Gandhian precept that whatever could be produced efficiently by decentralised industry should be so produced.

It would delete the right to property from the fundamental rights and would base its planning and policies on the directive principles of the constitution. It would attempt to achieve employment through appropriate economic policies that promote self-employment. Main items of its programmes were : primacy to agriculture and rural electrification, checking growing disparities between town and country, agrarian reforms covering tenural relationship and consolidation of holdings, integrated rural development, improving the lot of traditional artisans, economic and industrial self-reliance without the growth of monopoly and concentration of economic power, a fair wage for workers, and prices of essential commodities to be kept in check.

Congress for Democracy. It stood for deletion of the right to property as a fundamental right and guaranteed implementation of the directive principles of state policy. Its programme included : commanding heights of the public sector and curbs on the monopoly houses, full utilization of industrial capacity and capabilities with a view to accelerating economic growth, ensuring the supply of all essential commodities at fixed and stable prices within the reach of the common

man, full participation of workers at all stages in industry, completion of land reforms within the shortest possible time, etc.

CPI. For the working class, it would work for the following : minimum living wage, end of compulsory deposit scheme, restoration of dearness allowance cuts, and full recognition of trade union rights. For peasants, agricultural labour and others, the following items were included : remunerative prices for products of peasants, graded land tax, abolition of bonded labour, complete land reforms, living wages to agricultural workers, cooperatives to cover all weavers, right to work (for youth), labour intensive schemes.

Anna-DMK manifesto promised the inclusion of the right to employment as a basic right in the constitution, a need-based minimum wage, statutory ban on lock-outs and closure of industrial undertakings, better deal for the poorer sections, preferential treatment in employment for scheduled castes and tribes and backward classes.

Comments. All the parties realised the gravity of the economic problems facing the country and they gave a prominent place to their economic programmes in their manifestos. Common agreement on the following items may be noted : early completion of land reforms and increase in agricultural production ; increases in opportunities for employment, stabilization of prices, increased industrial production and the growth of public sector, uplift of the down-trodden and the poor, planned economic development, fair deal for agricultural as well as industrial workers and their participation in the management of industries. There were, however, differences in regard to their approaches. Whereas the Congress continued to regard the State as an essential tool for the realization of its goal of democratic socialism, the Janata Party pledged to bring about economic development through Gandhian socialism. It had, therefore, emphasized the role of cottage industries in its economic programme. The Janata Party and the Congress for Democracy proposed to delete the right to property from the fundamensal rights and convert it into an ordinary right. The policy and programme adopted by the Congress also had the same aim. With this common objective, the Congress, the Janata Party and the Congress for Democracy pledged themselves to implement the directive principles of state policy.

'The development of the extra-constitutional centres of power' essentially implied the ascedency of an otherwise non-political figure like Sanjay Gandhi to great political heights. The Janata's was the lone voice of protest over this. The Cangress denied this charge in its

verabal campaign. The CPI, CPI-M, steadily avoided the issue both in their written documents as well as in their campaigns. Despite Sanjay Gandhi's open dislike for communism and the communists, as reflected in his many political statements, the silence of the CPI could have either been ominous or strategic.¹

A strategy of three-tier electoral adjustment was the highlight of the election manifesto of the CPI. It said that the party would fight the election in West Bengal and Kerala in co-operation with the Congress, consider understanding with the Congress for Democracy in Bihar, Uttar Pradesh and Orissa, and keep its options open in the remaining states where co-operation even with the CPI (M) was not ruled out. In a series of election meetings, the Prime Minister, Smt. Indira Gandhi told the people that the choice before them was between stability, peace and progress offered by the Congress and confusion, chaos and instability. She argued that one should not lose sight of the positive achievements of the Congress Government while discussing mistakes and errors made by politicians and bureaucrats.²

Lok Sabha Election 1977 Result

Total No. of Seats 542		Seats declared 539	
Congress	152	DMK	1
Janata Party	271	AIDMK	19
CFD	28	Akali Dal	8
CPM	22	Independents	8
CPI	7	Others	23

For the first time a national polarisation occurred at the Centre and a viable national alternative emerged to the ruling Congress, whose image was tarnished during the emergency because of the excesses and mass arrests. The Congress had won in 1971 because of its progressive image and due to an 'Indira wave' throughout the country, whereas the Congress lost the 1977 elections due to excesses and mistakes committed during the emergency period and this situation was exploited by the opposition parties as there prevailed an 'Anti-Congress wave'.

¹Kausar J. Azam, *The Sixth General Elections : A Study of the Election Manifestos of the National Parties*, I.J.P.S., July-Sep., 1977, pp. 388-89.

²Times of India, 2 March, 1977.

B.T. Ranadive, member of the CPM Politbureau felt that the post-election situation in the country offered very favourable opportunities to the forces that opposed dictatorship and demanded expansion of democracy. However, the electoral victory must be regarded only as a beginning, an earnestness of the people's desire for restoration of their democratic rights extinguished under the authoritarian Congress rule of the emergency period. The electorate's verdict is also a repudiation of the economic policies pursued by the Congress and indicates a desire on its part for a radical change," he said.¹

The Indian voter, who may be illiterate, is politically very shrewd. He saw through not only the rotten state of the Congress but also the fact that Sanjay had no independent power of his own; he wielded frightening power only because Indira chose to transfer almost all of her power to him. No wonder the voter came to the conclusion that Indira must be deprived of not only her majority but also her seat. There can be no other meaning to the mortifying fact she should have lost Rae Bareilly and that, too, to Raj Narain.²

'The statement often made nowadays that the Janata Party has received a clear verdict in its favour is a half-truth. In one's enthusiasm for that party one should not forget that four States of the Union have given an equally clear and decisive verdict in favour of the Congress. (In its bitterest hour of adversity the Congress can derive comfort from this). And in Gujarat and Maharashtra, though the Janata Party has won a convincing majority, the Congress is still strong enough to breathe, albeit arithmetically, unlike in the North where it is moribund. At least two important constituents of the Janata Party—the BLD and the Jana Sangh—have no roots in the South. Names like that of Mr. Charan Singh and Mr. A.B. Vajpayee do not mean anything to people there. Both the BLD and the Jana Sangh have rightly or wrongly been branded as "reactionary" and they have not as successfully lived down their reputation in the South as in the North. Mr. Jayaprakash Narayan's scene of activity was largely confined to the North and his charisma has not effectively spread to the South. He remains a star on a distant horizon and his lustre is too dim to light the path of the Andhra or the Tamilian.'³

The Acting President dissolved the Legislative Assemblies of Congress-ruled nine States and placed them under President's rule till

¹*Times of India*, 7, July 1977.

²Inder Malhotra, 'The Nation's Verdict', Illustrated weekly, 10 April 1977, p. 11.

³R.G.K. 'The North-South Divide,' Ibid., pp. 7-8.

the completion of fresh elections in June. Elections were accordingly held for Assemblies in those nine plus two other States in the ordinary course. The results of Assembly Elections for June, 1976 are given below.¹

States	Total Seats	Janata	Cong- ress	CPI	CPM	AIA DMK	DMK	Others	Ind.
Bihar	324	214	57	21	4			5	22
Haryana	90	75	3					5	7
Himachal Pradesh	68	53	9						7
Madhya Pradesh	320	230	84						6
Jammu & Kashmir	76	13	11					45	6
Orissa	147	110	26	1	1				9
Punjab	117	24	17	7	8			58	2
Rajasthan	200	150	41	1	1				6
Tamil Nadu	234	10	27	5	12	130	48	1	1
Uttar Pradesh	424	351	46	9	1				19
West Bengal	294	29	20	2	178			55	9

Between 1977 and 1979. On 24 March 1977 an era ended and the country entered into another. For the first time, non-Congress Government was installed under the leadership of Morarji Desai. After the electoral verdict, many political leaders and observers said that Smt. Gandhi and Congress would never rise again to power. But shortly afterwards, developments began to point in another direction. In the 1978 February elections for several State Assemblies, the Congress led by Smt. Gandhi won a spectacular success. The former Prime Minister's charisma remained undiminished during her Karnataka election campaign. The crowds that she attracted in small towns and villages in her three rounds of election tour were among the biggest in

¹Hindustan Times, 28 Feb., 1978.

recent times.¹ Later on 9 November 1978 Smt. Ganhdi was elected to the Lok Sabha in a by-election from Chikmagalur constituency (Karnataka). In another by-election from U.P. Smt. Mohsina Kidwai (Congress I) was also elected to Lok Sabha.

The in-fighting and indiscipline in the Janata Party began to cause dissatisfaction even among its supporters. The new Government, in spite of its large majority and the massive mandate given to it by the people, could not proceed satisfactorily towards the fulfilment of its election promises. The opposition leader, Y.B. Chavan, told the Lok Sabha on 11 July 1979 that the people had lost confidence in the Morarji Desai Government. Moving a motion of no-confidence in a packed House, he said he was doing so not as a formality or as part of parliamentary tactics but as a grave national duty. He said that there was a "crisis of confidence" in the country which had been created by the Janata Party. He said intellectuals and the elite were disillusioned with the Government. The industrial working class and peasantry were up in arms against the several actions taken by the Government.

The tally of those who left the Janata rose to 47, and many more in the queue. On 12 July 1979, three ministers and four more members of Lok Sabha quitted Janata Party, thus reducing its strength to 249. On 26 July 1979, Charan Singh the leader of the alliance of Janata (S) and Congress, (S) was asked by the President to form the Government at the Centre, ignoring the claim of Janata Party's newly elected leader, Jagjivan Ram. The Party president, Chandra Shekhar said : "...the whole episode was all the more agonizing because it gave an impression that a pre-planned conspiracy was hatched to prevent a member of the downtrodden section of society from occupying the office of the Prime Minister." In an attack on the new Prime Minister Smt. Gandhi said that the coalition governments were incapable of ruling the country and would only result in its ruination. As Charan Singh could not face the Lok Sabha, the House was dissolved on 22 August 1979 and Charan Singh was appointed caretaker Prime Minister. Jagjivan Ram, new leader of the Janata Party regarded the dissolution of the Lok Sabha as an "infringement of the Constitution." He suspected that it was all a pre-planned scheme. Smt. Gandhi was back at the stage, as the central figure, falsifying the predictions of those who thought that her political career had been finished by the electoral verdict of 1977.

¹Myron Weiner, *India at the Polls : The Parliamentary Elections, 1977*, p. 102.

Poll Issues for 1980 Lok Sabha Election. In January 1980 Smt. Gandhi ridiculed the Janata Party's promise to make Jagjivan Ram Prime Minister if returned to power. The party was in power for two and half years and had ample opportunity to make him Prime Minister and yet did not do so. The Lok Dal had claimed that it was doing a lot for the farmers, but this was contrary to the truth, Its policies benefited neither the farmer nor the consumer. The coming elections were crucial, so the people should exercise their franchise judiciously, she said. In a speech on 19 December 1979 Deva Raj Urs, President of the Congress over the radio said : "It is my sincere belief that the Congress is the only alternative in the minds of the common people to the manifold problems facing the country today. It is with this hope and with this belief that I accepted the reins of this party at a most difficult moment of its history. The spirit of the Congress can never die ; this is the confidence with which my party and I face the people of India."

The Prime Minister, Charan Singh, said that the Janata Party and the Congress-I had been working hand in hand and made a frontal attack on Indira Gandhi and Morarji Desai. He alleged that Morarji Desai had become a "dictator" immediately on becoming Prime Minister and had tried systematically to isolate the former Bhartiya Lok Dal group from the Janata Party.¹ The Lok Dal was trully wedded to the preservation and consolidation of national unity, a concept of equal respect for all religions, fostering of democracy and establishment of a socialist society consistent with maintenance of individual freedom as also social and economic equality.

The CPM assured the people that its Lok Sabha members chosen by the people would fight for the programme the party placed before the country in its manifesto, remain faithful to the people and continue to battle for their interests whatever be the opposition from the vested interests. CPI manifesto said : For bringing down prices and assuring supply of essential commodities, our party wants the public distribution system strengthened and expanded. Our party also regards as indispensable steps for government take-over of wholesale trade in foodgrains, edible oils and sugar, as well as drastic curb on bank credit to monopolists and big traders. Our party will press for need-based minimum wage for the working class, right to bonus as deferred wage, effective workers' participation in the management

¹Sharda Paul, *1980 General Elections in India : A Study of the Mid-Term Poll* pp. 125-31.

of the public sector and inclusion of the right to work and collective bargaining in the fundamental rights chapter of the Constitution.

The Indian National Congress manifesto said that the party had waged a historic struggle for independence and would proceed to build a new India based on the principles of democracy, secularism and non-alignment. Above all the Congress had given stability to the country and enabled it to make rapid all-round progress through planned and integrated development. But all these assets were squandered away in just two and a half years of Janata Party misrule. The country was plunged into an enveloping crisis—economic, social and political. The integrity of the country was threatened by the Janata Party's fanatical policies on sensitive issues like language, Centre-State relations, etc. Table on page 497.

Failure of the Janata Party Government in achieving anything substantial and its split caused the Party's defeat at the polls in January 1980. Later in August 1980, elections were also held for the Legislative Assemblies of Janata ruled States. Out of the total 2094 seats the Congress contested, it won about 1400. It secured around three-fourth of the seats in Orissa, Gujarat and M.P., 71% in U.P., 66% in Rajasthan and 64% in Maharashtra. The Bhartiya Janata Party emerged as the major opposition in M.P. with 60 seats and it won 21 in Bihar, 14 in Maharashtra but only 9 in Gujarat. The AIDMK came to power in Tamil Nadu. Charan Singh's Lok Dal stood third with its 119 seats, 58 in U.P., 39 in Bihar and 13 in Orissa. In November 1981, by-elections were held in 15 Assembly constituencies of different States. Among those who won on Congress ticket were the three Chief Ministers of Maharashtra, Orissa and Rajasthan, who fought the elections after resigning their membership of the Lok Sabha. By winning the 9 seats the Congress retained 6 and wrested 3 from the opposition. Out of these Congress bagged 9 and other parties including the independents could get only 6, inspite of the continuous rise in prices and the worsening of the law and order situation in the country.

Party Splits. Charan Singh and Raj Narain, together with their followers, after leaving the Janata Party formed the Janata Secular (S). But after elections of January 1980, most of the former Jana Sangh leaders and workers also left the Janata Party and formed the Bhartiya Janata Party. In March 1980, Jagjivan Ram resigned the leadership of the Janata Legislature Party and also decided to form a new party—Janata (J). He said he felt his decision to join the Janata Government in 1977 was wrong. His efforts to get a party and gov-

Lok Sabha Election Results, January 1980

1980	No. of seats	C-I	J	J(S)	C-U	CPI	CPI(M)	State parties	Others	Independents
Andhra	42	41	—	—	—	—	—	—	—	—
Assam	2	2	—	—	—	—	—	—	—	—
Bihar	54	30	8	5	4	4	—	—	—	3
Gujarat	26	25	1	—	—	—	—	—	—	—
Haryana	10	5	1	4	—	—	—	—	—	—
Karnataka	28	27	1	—	—	—	—	—	—	—
Kerala	20	5	—	—	3	2	6	MUL-2 KCN-1	—	—
Madhya Pradesh	40	35	4	—	—	—	—	—	—	1
Maharashtra	48	39	8	—	1	—	—	—	—	—
Orissa	20	19	—	1	—	—	—	—	—	—
Punjab	13	12	—	—	—	—	—	SAD-1	—	—
Rajasthan	25	18	4	2	1	—	—	—	—	—

ernment fabric to carry forward the socio-economic achievements of the past had failed. But only 10 days after, he joined the Congress (U), which he described as the real Congress. The Lok Dal, headed by Charan Singh, split first when Raj Narain parted company to form a separate party. On 5 April 1981, it split for the second time, when two rebel leaders—Chandrajit Yadav and Banarsi Das—launched their breakaway 'Janawadi' (democratic) party at a national convention held in Delhi.

By making a clean sweep of the by-elections in U.P., Bihar, Orissa and Karnataka the Congress (I) showed that its hold on the electorate was intact. This was the first crucial test faced by Smt. Gandhi after her return to power. The Opposition again paid the price for its inability to project itself as a serious alternative to the Congress (I). Division of opposition votes manifestly helped the ruling party in Bareilly and Allahabad ; but in Cuttack the Congress (I) defeated the veteran Rabi Ray in a straight contest. In August 1981, Madhu Limaye, General Secretary of the Lok Dal announced in a hurry an "agreement" on the proposal to merge the Lok Dal, the Janata and the Congress (U), while only a preliminary discussion had taken place between their leaders. It was difficult to resist the inference that they were feeling frustrated with the limited and declining influence of their parties, and in their search for a way they were returning to the old solution of "opposition unity."

But while the ruling party is undoubtedly in a bad way (and getting more and more so day by day), and while the opposition is succeeding in maximising the Congress (I)'s discomfiture at the growing evidence of the inefficiency of its governance can the opposition parties combine even to make short-term electoral gains ? In effect, talk of opposition unity and of reviving the "spirit of 1977", boils down to whether two non-communist parties, the BJP and the Lok Dal, can hit it off. There are many other non-communist opposition parties—the Janata, the Congress (S) (now in the process of fragmenting), Bahuguna's Democratic Socialist Party, Jagjivan Ram's Congress (J), Chandrajit Yadav's Janwadi Party, and so on. But these do not add up to much, singly or together. 'As far as the communists are concerned, the CPM's failure to strike roots in the north and the CPI's declining influence there as a result of its having been overtaken by the CPM as the country's main communist party, mean that the communists are not of much use as poll partners. The non-communist opposition's ideological objections to the communist would also

hinder the formation of 'left-democratic alliance'...¹

The Mid-Term Poll, May 1982. In Kerala and West Bengal, the main contest was between the Left Front, led by the CPM and Democratic Front (or alliance), led by the Congress (I). In Himachal Pradesh the two main contesting parties were the Congress (I) and the Bhartiya Janata Party. In Haryana the main contest was between the Congress (I) and the Lok Dal-BJP combine. 'The current mini-poll is an election without issues though the Congress (I) does claim that it alone can provide stable governments and its opponents, specially the Lok Dal, the BJP, the Janata and the Congress (S) keep up the chant that the electorate must opt for them, if only to save the country from authoritarianism. In West Bengal, however, to talk of authoritarianism is like mentioning rope in the hangman's house. For, even the allies of the CPM, to say nothing of its opponents, are wiser by experience and dead scared of the Marxists' high-handedness and strong-arm methods.'² Party position in the States, after the elections, is given below :

Kerala (total Seats 140)—UDF 77 and LDF 63.

Haryana (total seats 90)—Congress (I) 36, BJP 5, Lok Dal 33, Janata 1, Congress (J) 3, Independents 12.

Himachal Pradesh (total seats 68)—Congress (I) 29, BJP 29, Janata 2, Independents 8,

West Bengal (total seats 294)—Left front 238, Congress (I) and its allies 56.

Congress (I) won both the parliamentary seats in Rajasthan and one Bihar ; but it lost parliamentary seats in M.P., West Bengal, U.P. (Garhwal) and Maharashtra. The results of the May 19 Assembly poll were widely interpreted as representing something of a setback for the Congress (I). Since the Congress (I) was not expected to win in West Bengal (where it was still the second strongest force) and since the UDF victory in Kerala can hardly be described as evidence of a Congress (I) decline, the case for holding that it has suffered a setback rests on the poll results in Haryana and Himachal Pradesh. But a careful scrutiny of the voting figures belied such a facile conclusion. For instance, we take Haryana. In comparison with 1980 Lok Sabha performance the Congress (I) has actually done better. Then it polled 32.55

¹A.S. Abraham, 'Congress (I) in a Bad Way ; Opposition Steps Up the Pressure', Times of India, 22 Jan., 1982.

²Inder Malhotra, 'Mid-Term Poll : Warming up for 1985', Times of India, 16 May, 1982.

per cent of the total vote. This time it secured 37.82 per cent votes and 36 assembly seats.

Another noteworthy comment was : 'To get a true picture of the election results, these must be compared to those of the last state elections in 1977. Then the Congress won only nine seats in Himachal with 27.7 per cent of the vote, and only 8 seats in Haryana with 17.2 per cent of the vote. This time the Congress has increased its share of seats dramatically and a quick tally shows that its share of the vote cannot be less than 35 per cent in either state. Finally, with its victory in Kerala, its far better showing in Bengal, and its impressive bye-election victories in Rajasthan, the party has every reason to feel satisfied with the outcome of the polls. It can therefore afford not to take a paranoid view of Himachal and Haryana, and to learn the lessons implicit in what has happened there.'¹

The polls suggested these conclusions : (1) The Congress (I) remains the only national party with no alternative in sight. (2) Given the organisational weakness of the Congress (I), Mrs. Gandhi's charisma seemed to be operating in full force.² The following observations are really significant. The Congress (I) did well, but not well enough. It won only three out of the seven bye-elections to the Lok Sabha. 'The decline of India's grand old party would not have been cause for undue concern if another truly national party was promising in course of time to take its place. But no such party exists....The BJP is well placed in organisational terms, thanks to the RSS cadres who sustain it, it has apparently not been able to outgrow its earlier limitation of a narrow social base limited to Hindi-speaking areas and the Hindus in Punjab.' The future of Indian democracy is, therefore, critically dependent on the Congress (I).³

Elections in 1983. Elections were held in the first week of January for the state Assemblies of Andhra Pradesh, Karnataka and Tripura. The position of different parties in the three Assemblies on 8 January was as follows :

Andhra Pradesh	Karnataka	Tripura
(Total seats 294)	(Total seats 224)	(Total seats 60)
Declared 285	Declared 221	Declared 60
Telegu Desam 198	Janata-Ranga 94	CPM 37
Congress (I) 58	Congress (I) 79	RSP 2

¹Prem Shanker Jha, 'The Elections of '82', Times of India, 24 May, 1982.

²Times of India, editorial, 4 June, 1982.

³Girilal Jain, 'Not by Charisma Alone,' Times of India, 26 May, 1982.

CPM	5	BJP	18	Congress (I)	12
CPI	4	CPM	4	TVJU	6
BJP	2	CPI	3	Independents	3
Janata	1	AIADMK	1	(Congress (I) rebels)	2
Independents	17	Independents	17	(ABI)	
		Others	5		

Comments in the American Press. The reverses of the Congress (I) party in the State Assembly elections were described in the American press as a "major political defeat" for the Prime Minister Mrs. Indira Gandhi. All the major newspapers reported the election results prominently and suggested that Mrs. Gandhi was losing her grip on a vast region of India. The Washington Post said Mrs. Gandhi's image had suffered because she had been perceived by many of her erstwhile supporters as having reduced the party organisation to a narrow personal club. A Post despatch described the defeat of Congress (I) party in the regional elections as "humiliating". It noted that it was for the first time since India won independence in 1947 that the Congress had faced so badly in the south. Other reports speculated that to recapture her prestige Mrs. Gandhi may order general elections in the country ahead of schedule.

Other Critical Observations. The powerful strength of the Telegu Desam has also pulverised other opposition forces in the state. The common dream of the CPM and CPI to stage a spectacular comeback in Andhra Pradesh has been shattered by NTR. The Janata Party, which claimed AP as one of its strongholds in the South, has been electorally reduced to total insignificance. The Telegu Desam, hardly a year old but now with a two-thirds majority in the state Assembly has added a new and questionable dimension to Indian politics—the uncertain politics of strident regionism. The Congress (I) debacle in Karnataka is less spectacular than in AP, but here also the old Congress (I) bastion has fallen under the decisive blow of the opposition forces. The remarkable revival of the Janata Party and quite impressive results achieved by the BJP, fighting on its own, carry the new possibilities of future political alignments of non communist political parties.

The net political impacts of the Assembly elections are : (1) The Congress (I)'s position has been gravely threatened as it has been proved that the appeal of Mrs. Gandhi has sharply eroded. (2) The position of regionalism has been further strengthened by the assump-

¹Pioneer, 9 Jan. 1983.

tion of political power by the Telegu Desam in one of the bigger states of India. (3) The bright political possibilities of a new "Janata combination" have been opened up by the Karnataka elections, (4) The CPM's advance has been somewhat halted in Tripura and Andhra Pradesh. 'The ice' of the Congress (I) dominance has been broken. This has opened up various uncertain possibilities. Thus the country has now entered into a new phase of political instability, while the thinking on next general elections has started in right direction. Not a good prospect for those who seek stability.'¹

'The stinging defeat the Congress (I) has suffered in its two southern bastions of Karnataka and Andhra Pradesh is bound to have profound repercussions. It means a virtual eclipse of the party in the whole of South, although it is heading to a not-too-stable coalition in Kerala. The rot is so deep that one cannot be quite certain that the party would draw appropriate lessons and take remedial measures. Sickening infighting and rampant corruption were no doubt the two main causes. Andhra Pradesh had four chief ministers in five years. Each government was so engrossed in the struggle for survival that it had little time to administer the state or look into people's problems. In the election itself, the party nominees were opposed by rebel candidates in more than 73 constituencies. Dissidence was not so acute in Karnataka. But it was wellknown that there was no love lost between Chief Minister Gundu Rao and some of his cabinet colleagues. The administrations in both states stink of corruption, each minister trying to feather his own nest. Even the promotion or transfer of a party officer or school teacher had its price tag. This bred widespread corruption. No police officer would buy his promotion unless he intends to earn many times the price he pays.'²

'But this will only be the beginning. Dissidence has raised its head in every state where the Congress is in power except (for no good reason) Bihar and Haryana. In all these states, too, it is only the party members' dependence on Mrs Gandhi's charisma that has enabled the Centre to exercise what little discipline remains. A defeat in Andhra can therefore lead to a somewhat slower disintegration of the Congress in most other states also. Finally, the message of NTR's victory is not likely to be lost on opposition parties either. Most of them are likely to conclude, rightly or wrongly, that the day of national parties that appeal to the electorate on the mixed platform of national issues

¹Pradip Bose, '*Rout in the South*,' Pioneer, 12 Jan. 1983.

²Editorial, Pioneer, 8 Jan. 1983.

and parish pump politics is over, and that of regional and ethnic chauvinism has dawned. If this happens, it will become exceedingly difficult to preserve the unity of the country within the framework of a democratic polity.¹

'The triumph of the CPM-led left front over the Congress (I)-TUJS (Tripura Upajati Juba Samity) in the Tripura assembly elections is impressive even if it was a foregone conclusion. Both the number of seats bagged by the front and the margin with which its candidates have won are convincing. The TUJS has hardly been able to improve on its past performance and remains marginal. The Congress (I) can find solace in the fact that it has won a fifth of the total of 60 seats. This is particularly significant because in the last assembly elections it had been wiped out and later compelled to cling to the Ananda Marg and Amra Bangali for support. The substantial gains of the Congress (I) are matched by the reduction of the left front's strength from over 93 per cent in 1978 to about two-thirds this time.... The victory of the left front is also significant in that it is a vote for stability and for a clean and relatively efficient administration which is not unresponsive to the specific problems posed by the ethnic composition of the state. It is also a popular endorsement of the front's institution of autonomous district councils in tribal areas. These bodies have not merely attracted tribal participation in local level planning but also successfully contained the growth of the extremist and tribal-chauvinist currents in the TUJS. The autonomous councils have by all accounts been crucial in ensuring that Tripura is not overwhelmed by the turmoil that marks much of the north-east. The new mandate should enable the left front to continue to provide a cohesive and viable government in Tripura. There is no alternative to it. The Congress (I) remains a rag-tag combination, with little cement binding it together, as the recent, split in the party and the success of rebel candidates show.'²

Elections in Delhi, Assam and Meghalaya

Delhi

Metropolitan Council, Seats 56

Congress (I)	34
BJP	19
Lok Dal	2
Janata	1
Muslim League	

Municipal Corporation, Seats 100

57
38
3
1
1

¹Prem Shankar Jha, *The Andhra Elections : Nation's Fate in the Balance*, Times of India, 3 Jan. 1983.

²'Verdict in Tripura, editoria', Times of India, 10 Jan. 1983.

<i>Assam Assembly</i>		<i>Meghalaya Assembly</i>	
<i>Total seats</i> 126		60	
Declared 97			
Congress (I)	84	Congress (I)	27
Congress (S)	1	All Party Hill	
PTCA	2	Leaders Conference	15+1
CPI	1	Hill State People's	
CPM	1	Democratic Party	15
CPI (ML)	1	Independents	2
Independents	7		

Owning responsibility for the party's defeat in the Delhi elections A.B. Vajpayee, president of the BJP, resigned as president. Vajpayee in his letter said that he felt personally responsible for the party's reverses in the elections and had taken this decision. He asked the party's rank and file to take the defeat in their stride and not feel disheartened by it. On his part he would continue to work for the party as a devoted soldier. The Delhi Pradesh BJP chief Vijay Kumar Malhotra, also offered to quit, though he did not agree with the view expressed at the meeting that the party had been humiliated or wiped out. In fact the party vote percentage had gone up, Malhotra claimed. He agreed with Vajpayee that they had failed to make use of the sentiments against Mrs. Gandhi and the Congress-I in the capital. If there was any organisational lapse in mobilising voters on the polling day, they were prepared for any shake-up in the party.

'Mrs Gandhi has reason to be immensely happy with the result of the Delhi elections. She had called for the poll in the capital when she had no inkling of the debacle she was to suffer in Andhra and Karnataka. The Congress (I) was thus suddenly put on the defensive and an over-confident BJP appeared to be a formidable opponent. Realising the implications of another poll defeat, Mrs Gandhi devoted three days to electioneering in Delhi. So did the top leaders of the other parties. The high-voltage electioneering underlined the importance every party attached to the Delhi elections. Delhi may not reflect the wind that blows through the rest of the country but it holds a unique position as the nation's capital with an electorate that constitutes a mini-India. Mrs. Gandhi knew that if her party lost in Delhi too it would not easily be able to recover and she herself would be a greatly diminished figure. So the Congress (I) threw everything into the battle, including huge funds of which no estimate can be made. Not that the other parties, particularly the BJP, were far behind. According to reports, Mr. Vajpayee drew larger crowds than Mrs.

Gandhi did in many areas. But the voters kept their counsel and finally expressed their choice in clear terms. The Congress (I) victory is a great boost for Mrs Gandhi at a time when she needed it badly. The outcome shows that people do not vote for an opposition which is, and is clearly seen to be, unwilling to close its ranks and present the picture of a viable alternative.¹

Elections in Assam were opposed by the agitating student organisations ; in sympathy with them the BJP, Janata and Lok Dal also boycotted the elections. Since presidential rule could not be continued any longer, the Government and the Election Commission had no alternative but to hold the elections, in the absence of a constitutional amendment which could not be made. Elections were held in an atmosphere of opposition, boycott and widespread violence. In many of the constituencies, elections could not be completed and in a large number of constituencies the turnout of voters was insignificant on account of fear. In short, elections in Assam have not been held in a free atmosphere and in the normal manner. The results of the election cannot be said to represent the true and free will of the vast majority of the electorate.

IV. Ruling Party-- Government--Opposition

Relationship Between the Organisational and Parliamentary Wings of the Ruling Party. After the fourth general elections, in which the Congress lost heavily, the Working Committee at its meetings held in May 1967 expressed its deep concern at the widening gulf between the two wings of the Party. With a view to establishing complete harmony between the two wings, a Liaison Committee was set up. It included the Congress President, the Prime Minister, three senior ministers and three such other members of the Working Committee who were not ministers. It also adopted a resolution which said that 'a suitable machinery be set up which might evaluate and review the implementation of party's policies and programmes.'

The Party is an integral whole, and its two wings are inseparable and interdependent. The sphere of activity for each wing is separate and can be defined. The organizational wing, for instance, selects candidates to Parliament including the aspirants to the office of the Prime Minister. It also works for their success in the elections. Once the Party commands majority in the Parliament, it forms government. The organizational wing also lays down policies to be followed by its Party in government. But it should set a healthy convention by

¹ *Delhi Verdict*, editorial, Indian Express, 8 Feb. 1983.

interfering as little as possible in the day-to-day working of the administration. The organizational wing can, however, question the Prime Minister in certain contingencies. Such a contingency may arise when the Government fails to carry out its basic policies as adumbrated in the Election Manifesto as well as in the resolutions adopted by the All India Congress Committee. It can also ask the Prime Minister to resign if it wants the Party to quit the offices. While the Government holds power, it is responsible for implementation of party's policies and programmes.

The relationship between the two wings would vary in the case of coalition governments. The question of entering into a coalition and the policies to be followed should be decided by the organizational wing. This course was adopted by other parties—the S.S.P., P.S.P., Jana Sangh etc. in the States. In communist countries, the organizational wing fully controls the party government, both in respect of its formation and formulation as well as implementation of its policies and programmes. Even in democracies, the supremacy of the organizational wing over the parliamentary wing is a well-established practice. After all the organizational wing stands for the entire organization, this position has been accepted even by Prime Minister Smt. Gandhi. But since 1976 it appears that Smt. Indira Gandhi, like J.L. Nehru wanted the organizational wing to play a subservient role. This was made possible after the split, as the president of the new Congress, by continuing in the cabinet, did not assert independence. The Working Committee of the Congress since then consists of those who fully support the Prime Minister. Consequently, the Prime Minister has come to possess a position which even J.L. Nehru did not enjoy. Smt. Gandhi has acquired a position of unquestioned supremacy both in the organization and the government. She is fully free to choose ministers and remove them from office, whenever she likes. The Pradesh Congress Committees and their chiefs are being nominated by her. The Chief Ministers are also selected and removed by her. The relationship between the Pradesh Chief and the Chief Minister is one of gross inequality. Since she has not favoured conflicts in her party, in nominating party chiefs in Congress (I) administered States, she has in most cases deferred to the wishes of the Chief Ministers.¹ However, this is likely to encourage dictatorial tendency and the growth of personality cult, both of which would harm the

¹Giri Lat Jain, 'Party Chiefs are Doormats : Power Reality in Congress (I),' *Times of India*, 4 Nov., 1981.

cause of democracy.

In the interest of organizational unity and for the harmonious working of its two wings, it is very necessary that their spheres are clearly defined and healthy conventions are established in regard to relationship between the two wings as well as between the Prime Minister and the Party chief. Differences and divisions on ideological grounds are understandable and desirable. Both the wings must work together with understanding, tolerance and good-will. If parliamentary democracy is to be a success, there should be understanding and co-operation between the two wings of the ruling party. A confrontation between the parliamentary and organizational wings would result in what we have witnessed in the recent past. The Congress, as an organization, has lost a great deal and the cause of democracy has suffered a severe setback. Only those who have no faith in the parliamentary form of democracy have gained.

But Kashyap observes : 'In the cabinet system of government, with its emphasis on the overriding leadership role of the Prime Minister, auxiliary functions of the mass organisation outside Parliament cannot be allowed to obscure the basic proposition that the party is primarily the servant of its parliamentary wing and that its principal function is to sustain its government. Realistic policies cannot be framed in isolation from the day-to-day activities of governance. Policies are not so much framed as they emerge from the constant interplay between administrative needs, sectional interests and public opinion.'¹

Relationship Between the Government and Opposition. Opposition is the lifeblood of a democracy and no leader or party can overcome the temptation of becoming dictatorial, autocratic and arrogant without the watchful eyes of a strong, viable, well-informed, vigilant opposition. A healthy opposition is capable of refusing to approve the policies of rulers and sanctioning funds to carry on its work. The opposition in the final analysis manifests itself in the form of a political party or parties. It is possible for the opposition to achieve this, particularly if it consists of a single party and not a number of disparate groups. But an opposition of this nature may not be easy to achieve because political parties cannot be made to order. 'Real democracy cannot survive without an opposition. It is one of the basic elements on which democracy rests for control of powers that is necessary to prevent abuse and no individual or group of politicians.

¹Subhash C. Kashyap, *Indian Political Parties*, p. 55.

can be relied upon to avoid the temptation to cling to power and to use that power to strengthen and consolidate their own position¹

There are few occasions, under the system of parliamentary democracy, for the government to consult the opposition on important matters. But Nehru sometimes went a step forward, and invited opposition members, or any committee of the House appointed by the opposition for consultations on certain issues. Nehru not only professed association of the opposition parties with the formulation of policies but also practised it. He had associated the members of the opposition in the formulation of all important policies of government, thus setting aside any feeling among the people that he had only contempt for the opposition. But without any rancour or ill-will he criticised the opposition whenever he felt that the opposition was taking up a wrong attitude. People were weaned away from unhealthy opposition through his criticism, which jeopardized the parties vote-catching capacity. Communists bore the full brunt of his attacks for their extra-territorial allegiance. Though he favoured the socialist party next to the Congress, Nehru never spared it, whenever he found that its policy was ill-conceived and would result in paralysing democracy. The desire to develop a tradition for a democratic government was uppermost in his mind and all his criticisms were the outcome of this desire.²

Lal Bahadur Shastri and Smt. Gandhi (upto 1970) were not so strong in the Party as well as in the Government, as Nehru was. Naturally their attitude towards the opposition could not be unresponsive and hard-hitting. From 1971 onwards, the opposition parties mounted pressure upon the Government in the face of rising prices, growing unemployment and worsening economy of the country. In 1974, the Gujarat agitation, led by the youth, with the backing of opposition leaders succeeded in getting the State Assembly dissolved. The path of agitation, mass Satyagrah and gherao of legislators became the order of the day in several parts of the country. The opposition leaders even talked of having an independent President in order to curb the authority of the Government. Smt. Gandhi could not possibly take the attitude of the opposition kindly or in a spirit of conciliation. Before her fall in 1977 at election meetings she declared: "This opposition combination of parties of different principles and programmes cannot even form a strong opposition in the Lok Sabha, let alone forming a government at the centre." She attacked the

¹Santo Esteves, *Prospects of Indian Democracy*, pp. 7.11.

²Mahabir Singh Verma, *Union Cabinet in India*, pp. 151-58.

opposition for its "one-point programme of wanting to remove" her and its obstructionist activities that harmed the national interest. While in Opposition, her partymen adopted the same tactics both inside and outside the Parliament. But after her return to power in 1980 she regretted that opposition parties, in following their sectional objectives and their policies of "opportunism and vindictiveness" were unmindful of the harm they cause to national unity. On 23 December 1981 she lashed out at the opposition parties for carrying on a malicious and vicious whispering campaign against her party on the question of corruption, law and order and imputing motives of casteism and communalism in every incident in the country.¹

While the opposition parties are weak, badly led and demoralised, the opposition sentiment remains strong. Smt. Gandhi may or may not be as good in reconciling conflicting interests as Nehru undoubtedly was. She may or may not be equally interested either. But only the politically naive can believe that this is the crux of the matter. The pertinent point is that the objective situation is much more difficult. The weakest sections of society have become conscious of their rights and begun to assert themselves to the point of being willing to fight for them. The recession in the West and the continuous rise in the prices of crude, machinery and industrial raw materials has not only placed a limit on our economic growth in coming years but has called into question the validity of the models we are familiar with. All of them involve an ever increasing use of energy which is going to be in short supply. No one can make a convincing case to show we can feed, clothe and house our people adequately and give employment opportunities as far into the future as we can see. Pessimism is not just fashionable. It is commonsense. The implication is not that Smt. Gandhi should not do what she can to reconcile conflicting interests and perceptions but that there is a limit to what she can do with the best will. She is preferable to other political leaders because she is able to bridge to some extent the big divides in our society.²

Role of the Opposition. The Congress has been a centrist party ; while the Swatantra and Jana Sangh represented the right, the socialist and communist parties have been left parties. The right and left polarization could easily be seen on many issues involving socialist programmes or individual freedom. The rightist parties have stood

¹*Times of India*, 24 Dec., 1981.

²Girilal Jain, 'A Symbolic Relationship : The Ruling Party and the Opposition' *Times of India*, 11 Jan., 1980.

for lesser governmental intervention and more personal freedom, while the leftist parties have favoured more governmental authority. The opposition parties have been equally divided among themselves on the questions of individual freedom and governmental intervention. For instance, the Swatantra party decided not to join the Select Committee constituted to consider the bill introduced by the PSP leader, Nath Pai, in July 1967 seeking to restore to the Parliament the right to amend the fundamental rights and voted against the measure along with the Jana Sangh. The SSP abstained from voting and its leader, late Dr. Ram Manohar Lohia, opposing the bill gave vent to his apprehension that the measure if enacted would vest in Parliament the right to do away with democratic institutions envisaged in the Constitution. Communists and SSP members ardently supported the measure. Congress members were divided over the issue as on many others.¹

Ideologically, there was not much in common between one opposition party and another and naturally, they were not in a position to offer a combined corrective to the policies and programmes of the party in power. On several occasions, they exhibited signs of coming together, but they did so only to spite either the Prime Minister or to malign the ruling Congress party. Neither programme nor policy mattered and quite logically, people did not set much store by these parties. Taking the Privy Purses issue as an instance in point, the Swatantra and the Organisation Congress joined hands along with the Jana Sangh to defeat the ruling Congress. It is difficult for people to imagine that all of them were motivated by the same national considerations when they did so. Each party had its own grouse against the Prime Minister and the Privy purses issue provided a good opportunity for them to come together in their attempt to humble Shrimati Indira Gandhi.

An effective opposition implies that the party or parties should be in a position to form an alternative government when the party in power goes out of office. And, as long as the people were not sure that such an alternative government which could be stable was forthcoming, they were in no mood to take the risk of voting them in large numbers. Several explanations and theories have been offered during the last few months as to how Shrimati Gandhi was returned to power with such an overwhelming majority. To my mind, the most

¹S. Saraswathi, *The Opposition in Indian Parliament : The Dynamics of Group Alignments*, J.S.P.S., Apl. June, 1970.

plausible explanation is that in the critical situation that had developed in India, the electorate was keen to have a stable government. It did not matter to them if Shrimati Gandhi was Prime Minister or Morarji Desai was Prime Minister. If the opposition parties had only shown enough proof by their actions and behaviour that they could form a stable government, they would have been returned to the Lok Sabha in much larger numbers. This failure of the opposition parties to establish their credibility in the four years that they had been in a vantage position in the Lok Sabha spelt ruin for them. It is difficult to forecast when and whether at all the Indian Parliament will have an effective opposition.¹

Once again there is talk of opposition unity. But this seems more an expression of despair than of hope. Having failed to win popular support despite the government's far from impressive performance, especially in respect of the steady rise in prices, several opposition leaders have begun to talk in terms of the old familiar solution. However, this does not convince any one, not even the opposition leaders themselves. Many of them are as apathetic and cynical as the common people. They know the game is up for them. But, unlike old soldiders, they refuse to fade away. Only Smt. Gandhi seems to take them seriously. In interviews by Subhash Kirpekar and Kirti Bhaumick, Pranab Mukherjee opined that the opposition parties, in order to build a national party require a national leader (which they do not have). Chandra Shekhar rightly pointed out 'Unity does not mean a conglomeration of political parties'. According to H. N. Bahuguna, 'There are very bleak chances of Opposition unity, K. P. Unnikrishnan remarked : 'We need programmatic unity, if not ideological unity; evidently he means to say that the former kind of unity should be possible, if the latter cannot be achieved. But Madhu Limaye rightly diagnosed the problem by saying, 'The crux of the matter is personality adjustment.'²

In appealing to opposition parties to cooperate with the government in solving urgent national problems, Smt. Gandhi struck a constructive note. It is necessary that the debate on vital issues is conducted in an atmosphere free from acrimony and distrust. But the greater responsibility in this regard is that of the government, especially of the Prime Minister. The opposition is too weak, fragmented and demoralised to set the tone for the country's public life. It is not so

¹M. Pattabhiram, *The Failure of Oppsition Parties in India*, *Ibid.*, p. 37.

²'*The Agony of the Oppsition*', *Times of India*, 30 Aug. 1981.

much obstructionist as incompetent. 'Mrs. Gandhi has said that some of the opposition leaders have also indulged in corruption. The point is well taken. The moral standard of opposition leaders is not and cannot be much higher than that of those in the Congress (I). Both are, as the saying goes, chips of the same block. But the former have held office only briefly and insecurely. Thus while it will be partisan to allege that only the Congress (I) leaders are corrupt, it is only natural that attention is focussed on them. Their party has been in power most of the time since independence at the Centre and in most of the States and it cannot be seriously denied that of late corruption has assumed much greater proportions and that the corrupt have become much more brazen and daring. Again this is a problem which Mrs. Gandhi alone can tackle. The opposition can at best put a certain amount of pressure on her.'¹

Concluding Observations. It was also the ideology and the policies pursued by the Congress that had retarded the rise of a real Opposition. The Congress had always been an *omnibus party*; a maidan open on all sides which embraced within its fold as much as leftist elements, centrist as much as extremist policies, and in more recent years advocating measures and sponsoring programmes which sometimes made it difficult for a person to know whether it was a central party leaning largely on Fabian Socialism or an out-and-out Communist Party wedded to State ownership and control of every human activity. If the opposition groups and political leaders were to make a concerted effort to form a national party based on secular democratic ideals with a broad-based district and village level organisation, they would have been able to educate the voters and wean them away from the Congress.'

'There is a vast array and multifarious sites of oppositional politics in India. They are greatly fragmented, lack organised aggregation, and are often more in the spirit of a continuous comment on the operating system than an institutionalised alternative to it. The result is that although appearing like challenges to the system or its sub-systems, they have in fact dissolved in the ongoing structure of authority and dissent and have lent resilience and continuity to the system's consensus. The disadvantage of the system is its large residue of uninstitutional behaviour and the sporadic outbursts of instability at one point or another. Its disadvantages on the other hand, are

¹'Incompetent Opposition', Times of India, 19 Feb. 1982.

²Santo Esteves, *op. cit.*, pp. 92-3.

enormous flexibility, a low temperature of politics, and continuous assimilation of successive elements seeking recognition and entry into the system.¹

V. Party System

Main Characteristics. According to Kothari, the salient characteristics of party system in India may briefly be stated as : (1) It evolved from an identifiable political "centre", whose institutional expression was the Indian National Congress, crystallized through its nation-wide organisation, and identifiable in terms of its elite. It was a small elite, homogeneous in social background, mainly upper-caste and English educated. (2) Opposition groups also emerged from this class. Even before independence the Congress had contained quite a degree of factional differentiation. After independence both factionalism within the Congress and the crystallization of opposition outside it went further. Most of the dissenting elites, however had at one time belonged to the Congress and shared much of the social and intellectual background of Congressmen. Political dissent was thus a function of the political centre of society rather than a projection of autonomous interests in the social and economic sphere.² From our point of view, the main characteristics of our party system are as follows :

First, India has a multiparty system; it is for this reason that classification of parties is difficult and the difficulty has been increasingly felt, because the parties have been changing, splintering, trying to unite and splintering again. After the victory of the Janata Party in 1977, hope was raised that there would be polarisation of parties and a two-party system was likely to develop, but that hope has been belied. It may also be pointed out here that multi-party system is not only a feature at the Central level but at the State level also. Two grave defects of the multi-party system may also be added here : (1) When there are a number of parties in the opposition, the result is a disunited, fragmented and weak opposition. (2) When a coalition government comes into office on account of several parties having come together for the sake of capturing power, the result is a weak and unstable government.

Second, one party dominance has been an important characteristic of the Indian party-system. From 1950 to 1966 the Congress enjoyed unbroken monopoly of power in the Union Government. Even after the 1969 split the Congress Party headed by Smt. Gandhi

¹Rajni Kothari, *Politics in India*, pp. 222-23.

²*Ibid* , pp. 160-63.

continued in office with the support of some minor parties. From 1969 to 1971 elections, the Congress remained in power, but could not be said to have dominance. However, 1971 elections returned the Congress with much greater majority and dominant position which again continued right upto March 1977. The Janata Party had the same sort of majority and a massive mandate of the people behind it, but due to its coalitional character the party could not attain a dominant position like the Congress. The Lok Sabha election of January 1980, again gave the position of dominance to the Congress Party led by Smt. Gandhi. 'India is back to one-party dominance with vengeance. Mrs. Gandhi has improved on her own performance in 1971 reducing other parties and leaders to pulp. It will be some time before they show signs of life, not to speak of health and vigour. Some of the more irresponsible among them may soon be igniting the powder-kegs that are lying around. But that is not likely to enhance their appeal to the mass of people who are fed up with their antics and the sectarian activities of pressure groups, especially the trade unions.'¹

Third, splinters and factions have been an important characteristic of all the important parties. The Congress split in 1969, again in 1977 and in the following years. Smt. Maneka Gandhi, founded the Sanjay Vichar Manch and later launched a new party. The Communist Party first split in 1964 and again in 1981. The Janata Party and even the Lok Dal have split more than once. The Lok Dal, headed by Charan Singh, formally split again on 9 August 1982. Charan Singh was removed from presidentship of the party and Karpoori Thakur was elected as the successor at a convention of the Lok Dal rebel leaders. This development followed expulsion of Devi Lal and some others by the party President. Prominent leaders of the new Lok Dal, Chandrajit Yadava, president of the Janawadi Party and H.N. Bahuguna president of the Democratic Socialist Party are making efforts for opposition unity. The splinter parties, in a sense, are factions of the parent parties. Moreover, the Congress, the Janata, the Socialist and Communist parties have had factions within them, so much so that the Congress has been described as a coalition of factions.

According to Myron Weiner, two reasons for splintering in India are : (i) there is no consensus in India even on fundamental questions concerning the nature of the society and they are felt so strongly that those who differ cannot work together ; and (ii) politics has become so central to the lives of those who take an active part in it that

¹Girila! Jain, 'One Party Dominance Again', Times of India 9 Feb 1980.

compromise is exceedingly difficult. In the United States fights are over specific questions of state policy, rarely over involved 'ideological' issues.¹ Another major cause of splinter parties after 1967 elections, particularly in the States was the development of political defections.

Fourth, defections were so frequent in the States, after the 1967 elections as a result of the weakening of the Congress, that they not only brought a bad name to the party system but also made politics a dirty game of power. A distinction was sought to be made between a change of loyalty by a group and similar action by an individual. The basic presumption behind this distinction was that the group defections are based on honest ideological differences or disagreements on principles. But if we try to analyse the several cases of group defections we shall find that they were caused by those who wanted power for their group or for their leaders. The business of politics and of politicians is by necessity power oriented. The reasons for the continued phenomenon of large-scale defections are : (i) the nature of political parties in India ; (ii) the ageing leadership, bossism and the growth of establishments with vested interests in the *status quo* in almost all the parties ; (iii) the lack of ideological orientation and polarisation among the parties ; (iv) the low level of popular involvement in membership, objects and activities of political parties ; (v) in-fighting and factionalism ; (vi) conflict of personalities and temperamental incompatibilities between legislators and party bosses ; (vii) marginal and unstable majorities ; (viii) the temptations of office, money, status and the like—or denial of the same ; (ix) the tremendous gap between the emoluments of a minister and that of an ordinary legislator ; (x) the existence of powerful lobbies and pressure groups ; and (xi) absence of any effective legislation to check the evil.

In pursuance of a resolution passed by the Lok Sabha in March 1968, a committee consisting of political representatives and legal experts was set up under the chairmanship of Y.B. Chavan in 1968. The committee suggested several possible remedies for tackling the problem in its report presented to Parliament on 18 February 1969. On the legislative plane the opinion in the committee was sharply divided, so the committee did not make any recommendation about (i) the proposal to accord the right of dissolution to the council of ministers and (ii) the registration of political parties. The Constitution

¹Subhash C. Kashyap, *Politics of Power*, pp. 83-7.

(Thirty-second) Amendment Bill, introduced in 1973, sought to disqualify a person from continuing to be a member of Parliament or State Legislature if he voluntarily gave up the membership,¹ but no legislation was passed till 1977, when the Janata Party assumed office. The Law Minister held discussions with the opposition on the question in May 1977. The Government had to withdraw its proposed anti-defection Bill from the Lok Sabha on 28 August 1977 amid determined opposition from the ruling party's own benches.

'An Anti-defection law, it would appear, is easier to talk about than to frame. The fact is that the problem of defections by elected members of legislative bodies is not amenable to simple legalistic solutions or statutory regulations. It falls within the wider framework of the complex of political alignments and co-relations, especially in live political system in which public opinion and mass sentiment have no opportunity to articulate and influence changes. There are cases of legislators horse-trading and changing sides for personal gain. Such defections deserve the strongest condemnation. But a legal bar to change party affiliations by legislators...for reasons of genuine political conviction or in response to popular sentiment would amount to freezing the political situation and providing an insurance to the dominant political formation of the day to conduct itself with impunity in a wayward fashion in between general elections.'

Although putting an absolute ban on all kinds of defections may seem to be a little harsh remedy, yet looking at the magnitude, nature and the threatening impact of defections on our political system and on the 'political well being' of the society, it is submitted that this is the high time for our Parliament to enact anti-defection laws on the lines of 48th (constitution amendment) Bill, at its earliest. It is suggested that any such enactment should treat the change of allegiance by an individual legislator and change of allegiance by a group of legislators on the same footing unlike the provisions of 48th (Constitution amendment) Bill. Also any such enactment should not exempt the independents from its purview. It is however not denied that anti-defection laws will be an effective check on defections but will not by themselves be sufficient to eliminate the causes which are responsible for the phenomenon of defections unless such legislative actions are supplemented by the honest efforts on the part of political

¹The outgoing Chief Election Commissioner, S.L. Shakdher, on 28 May 1982 advocated automatic forfeiture of membership of a candidate who changes his party affiliation or independent status immediately after election.

- 'Dealing With Defectors', Indian Express, editorial, 14 May 1977.

parties to evolve a sound political culture as the quality of nation's public life depends not on how comprehensive or fool-proof its laws governing such behaviour are, but on the values and norms of society generally and the political conventions of fair-play and integrity which have evolved over a time without having to be spelt out in a code.¹

Finally, opposition is weak and disunited. This has already been discussed. A further couple of points arise out of India being a very large federal state with strong regional differences and even quasi-nationalist sentiments in some of its parts. The first consequence is that the all-India spectrum changes its shape from one State to another. Most vividly this is exemplified in the virtual absence of rightist parties in West Bengal and the extreme feebleness for most of the time of left parties in States such as Rajasthan and Madhya Pradesh. Moreover, even if the spectrum appears to be intact and complete in several States the nature as well as the strength of some parties may differ from State to State.² According to Palmer electoral analysis reveals that all opposition parties in India are really not national parties at all, but are in fact confined to a relatively few States and certain areas. The Jana Sangh got 73 of its 104 seats in the election of 1972 in the Assemblies of Bihar and Madhya Pradesh, the Congress (I) 82 out of its 88 seats in Bihar, Gujarat, Haryana and Mysore, the Socialists 33 of their 57 seats in Bihar, Swatantra 11 of 16 seats in Rajasthan and the CPM 30 of its 34 seats in Tripura and West Bengal. The CPI won seats in more States, but it got 90 of its 112 seats in Bihar, M.P., Punjab, Rajasthan and West Bengal.³ Madhu Limaye wrote in 1977 that regional parties would probably continue to exist provided they were integrated into the mainstream of our national life and they would not be a threat to national unity.⁴

Concluding Observations. Two major weaknesses—multiparty character and political defections—have already been discussed. The third weakness of our party system is that it leans on a leader. This brings us to the heart of the problem of Indian politics—the country's critical dependence on an individual for political stability and order.

¹Mool Chandra Sharma, '*Politics of Defections and Democracy*', J.C.P.S., July-Sep., 1979, p. 350.

²Das Gupta and Morrisjones, *Patterns and Trends in Indian Politics*, p. 17.

³Norman D. Palmer, *Elections and Political Development : South Indian Experiment*, p. 38.

⁴Madhu Limaye, 'Regional Parties No Threat to Unity', *Illustrated Weekly*, 21 Aug. 1977, p. 7.

This reality was obscured from public view till Mrs. Gandhi split the Congress in 1969, indeed till she split it for the second time in 1978, largely because so great has been the British influence on Indian intellectuals and commentators that they have been unwilling to recognise the Indian socio-political reality for what it is. They have taken it for granted that like Britain India, too, can produce coherent parties which do not depend for their survival on outstanding leaders...In the context of the present discussion, her motivation or compulsion is, however, of secondary importance. What is important is that the result once again demonstrated that the future of a mass non-cadre party depended not so much on its organisation and programme as on the presence or absence of a popular figure at its head.¹

The party system that served the country well for more than 15 years started showing cracks towards the mid-sixties and virtually crumbled towards the end of the decade. The reasons underlying this disaster could be summarized by saying that in India parties exist for men and not men for parties. The chief features of the party system, over the past decade and a half, have been fragmentation and defection rather than polarization and party loyalty. Every leader is incessantly aspiring to reach the top and when unsuccessful to do so within the framework of his party he breaks away and forms a new party of his own, ever more weak and less likely to be able to serve his objective, often resulting in the arrogance of groups in which the leader himself is the only follower. In other cases the rank and file are divided and follow a leader either blindly or go with him on considerations of future personal gains. All this leads to degeneration of politics at all levels and adds to the instability of the government, hindering recourse to firm and meaningful policies. In addition to a consistently degenerating party system, India has apparently run out of effective and efficient leaders capable of taking their own decisions without looking towards a higher functionary.

'There is another problem we face, the refusal of the Indian politicians to be in the Opposition. At any given time, a good party system demands that 60 per cent of the politicians be in office and 40 per cent of them be in the Opposition. But, if you examine the last 30 years, ever since independence, 90 per cent of the politicians have always wanted to be in office all the time and there were only ten

¹Girilal Jain, '*India Leans on a Leader : Inability to Sustain Parties*', *Times of India*, 19 Aug., 1981.

per cent—fools like me—who were prepared to be in the Opposition. In other words, you can't get a party system where everyone wants to enjoy the fruits of office almost all the time. And hence the malaise of defections.'¹

In a dialogue between Minoo Masani and Girilal Jain, the former said that there is the absence of grass-roots organisation in our parties. They float on top with nothing between them and the mass of the people ; they are rootless. But according to the latter, in India, a charismatic personality whether it is Gandhi, Nehru or now Smt. Gandhi, is central to the political process.² Various answers to the question : *Is the party system dying ?* may also be summarised below :

'The reasons for what seems to be the decay of the political system in the country are quite apparent ; stark poverty, widespread illiteracy, sharp social divisions based on caste and religion and a decline in the moral standards of the political leadership.' There is, however, no reason for despair, because our people are politically sound.' (Charan Singh, Lok Dal).

'I do not think that the present situation represents a complete failure of the party system. The elections have proved the vitality of our people. They know exactly what to do in a particular situation. A national alternative will emerge if only the political parties will learn from experience.' (Y.B. Chawan, while in Congress U).

'I feel that Congress (I) hegemony on Indian politics will end sooner than many suspect. Its composition and style of functioning carry within them the seeds of its destruction. Like nature, politics also abhors a vacuum. It is for the various groups in the opposition to exert themselves in the meanwhile and try to build their credit with the people by their actions.'³ (L.K. Advani, BJP.)

'All this evidence of decline and erosion in the political arena is only symptomatic of something far more endemic, namely a growing (not yet complete) dissolution of the nexus between state and society and of the arrangements and understandings that had constituted some kind of a social contract. Critical to this nexus has been the democratic process through which the integration of a highly diverse and conflict-ridden social fabric has been made possible. It is necessary to restore the legitimacy of the electoral process by restoring

¹Girilal Jain, '*Party System in Decay : Implications for Indian Polity*', *Times of India*, 26 March, 1980.

²*Times of India*, 25 May 1980.

³*Is the Party System Dying ?*, *Times of India*, 25 May 1980.

to it its basic role as a catalytic force that makes the institutional framework respond to the needs and interests of a changing society. Those who think of elections as inconvenient intrusions that upset the stability of government are advocating something very dangerous indeed.¹

¹Rajni Kothari, '*Political System in India : Limits of Electoral Verdict*', Indian Express, 28 Aug. 1980.

CHAPTER 20

Pressure Groups

I. Introduction

Articulation of Demands. Every independent society makes policy choices, i.e. broad policy decisions which are backed up by severe sanctions. In making and enforcing these political decisions all societies have some way of articulating and communicating political demands, translating them into choices of political courses¹ Various kinds of structures, from an undisciplined mob to a merchants' conference, may engage in interest articulation. While regional and kinship groups always work through informal and intermittent channels ; associational groups always articulate interest through regular and legal channels. Self-representation and anomic groups (largely spontaneous in character) are characterised by little organisation and a lack of constant activity on behalf of the group. Institutional interest groups have formal organisations and are composed of professionally employed personnel, with designated political or social functions. The associational interest groups are the specialised structures for interest articulation—trade unions, organisations of businessmen, ethnic associations, associations formed by religious and civic groups. Organised interest groups seek channels for articulation of their demands and means for convincing the decision-makers that their demands deserve attention and response. Interest articulation may have different styles—manifest or latent ; and demands may be general or specific.²

Political Party and Interest Group. A political party is usually a large organisation which seeks to win the active support of millions of voters. Consequently the programme of a political party is also broad and must deal with many problems. Interest groups, on the other hand, are seldom actively supported by more than a small

¹Macridis and Brown, *Comparative Politics : Notes and Readings*, p. 135.

²Almond and Powell, *Comparative Politics : A Developmental Approach*, pp. 73-87.

minority of people, who have some interests in common. Naturally, therefore, the appeal of an interest group is narrow and its programme is also limited. Although interest groups and political parties have several characteristics in common, the fundamental difference is that a political party submits its claims periodically to the electorate and is willing to assume responsibility for the operation of a government, whereas an interest groups does neither¹. Further, the party is mainly interested in winning control and operating the government ; the interest group is interested only in shaping public policy in relation to its common interest.

Kinds of Groups in India. In India, interest groups may first broadly be divided into associational and non-associational and the latter may further be sub-divided as follows : There are certain community-based organisations which have functioned or which still function both as a political party and as associations to promote the interests of a particular group or community. These include such parties as 'Republican Party' and the 'Akali Dal'. Associations devoted to the interests of a special community include the All India Conference of Indian Christians, the Anglo-Indian Association, Kayastha Sabha, etc. The associational groups of communities are specific in their demands while other community associations are diffuse and only create more confusion.

An important classification is : (1) Given to dominant role of government in political institutionalization and social and economic development, the most important interests are crystallized in the form of "institutional interest groups"—the major political parties, the bureaucracy, and the factional net-work that cut across different levels of governmental functioning. (2) Most interest configurations are "mixed", rather than discrete ; they are part of the larger coalitional pattern that characterises India's diffuse political system. An aspect of the mixed character of interest groups is the role of traditional family and kinship structures in the organisation of the modern sector. Studies of trade union associations have also shown the considerable role that family, community, and caste loyalties have played in their actual operation. (3) The significant interest articulation in India is not in respect to social and economic interests in the modern sector but in respect to antecedent structures of caste and community in the large and pervasive traditional sector. (4) It is governmentalization of social and economic structures that provides the dominant frame-

¹Hitchner and Levine, *Comparative Government and Politics*, p. 62.

work of articulation in India. The most important modernist interest groups are institutional rather than associational. . . .¹

According to Hanson and Douglas, there are two main kinds of pressure groups : (1) those groups that are based on traditional social structures related to religion, caste, tribe or language ; and (2) those groups that have sprung from modern centres of society, like industries and universities. A very powerful pressure group the Rastriya Swayamsevak Sangh (RSS) was born out of Hinduism. On a different level, there are Gandhian social service groups, whose origin is partly traditional and partly due to the significant part played in their formation by Vinobha Bhave and Jayaprakash Narayan. But the Indian soil has been more fertile for the activities of caste groups, for example, the organisation of Nadars in Tamil Nadu is very active. As could be expected, business interests have created many pressure groups of modern type. The largest and the most important among them is the Federation of Indian Chambers of Commerce.²

According to a Government survey there were 106 organisations in 1980 with activities of political nature or having associations with political parties. All the major Central Trade Union organisations, including the INTUC, the AITUC, the UTUC and the CITU, were among the 37 listed trade unions. The other organisations were 25 student and youth bodies, 6 women's organisations and 38 listed as 'miscellaneous'. The Indian Youth Congress and the National Students Union of India figured in the list of student and youth bodies. The National Federation of Women was among the six women's organisations. Among the miscellaneous organisations were : the Muslim Majlis-e-Mushawrat, the All-India Sarva Sewa Sangh, the Nag Vidarbha Andolan Samiti, Kannada Chaluvaligors, the Dravida Kazhagam (DK) and the Dalit Panthers.

Factors for Their Growth. Many factors have contributed to the emergence and multiplication of pressure groups. The industrial and rail-road expansion of the mid-nineteenth century experienced rapid industrial growth, the emergence of trusts and monopolies, and national-wide struggles over tariffs and government regulation of rail-road and business. With the advancement of technology and agricultural skill new problems, desires, and needs arose and subsequently new groups and organization sprang up to meet the challenge of the situation and to advance common interests. Besides, powers of the government have increased, its costs have gone up, problems

¹Rajni Kothari, *Politics in India*, p. 216-18.

²Hanson and Douglas, *India's Democracy*, pp. 9-10.

have become complex and consequently the intricate situation has driven a large number of citizens to feel the necessity of having specific groups for representation of their ideals and interests.

In an open society, interest groups are permitted to organise themselves freely, they do not only engage in activities which affect each other, but they also tend to influence the machinery and the processes of government. The government in its turn affects their interests through laws, rules and regulations, licences, taxation and other countless legislative and administrative acts. Seen from the point of view of the government, interest groups turn into 'pressure' groups and their activities into pressures upon government. Where they work in open, pressure groups fulfil a necessary and useful function. They help in forming a link between the people and the government, of which administrators and legislators can make use in securing information on facts and attitudes.

Despite mass illiteracy and consequent want of social communication pressure groups are much in existence in India. They are not large in number, and are different in forms from those in Western countries. Pressure groups in India are constituted along lines of occupational and economic interests. These groups are trade unions, peasant groups, teachers' associations, student groups, women's associations, business community, caste and religious associations, etc. 'The development of pressure groups in India's political system, is generally regarded as a vital element in the process of political modernization, in so far as it represents a response to increasing functional differentiation to the breakdown of traditional types of authority. Since Independence, after the adoption of modern political system, the most dominant interest articulators in India have not been the social and economic interests but their still pervasive caste, community, regional, religious and language antecedents. . . . Pressure groups in Indian politics reflect the diversities of our democratic society. They may also serve as critical agents of social integration and as channels of communication between the individual and the State.'¹

II. Social Groups/Community Organisations

There are four major types of community associations based on tribe, caste, religion and language. Tribal associations are of three types, viz. interest groups like the tribal associations in the States :

¹Babulal Phadia, *Pressure Groups in Indian Politics*, p. 2.

political parties like the Jharkhand Party in Bihar ; and secessionist movements like the Naga National Council. Religious associations like the Akali Dal and Majlis-e-Mushawarat seek to gain special concessions for their co-religionists. Caste associations are found in abundance in every part of India. Linguistic and ethnic associations like the Telengana Praja Samiti, the D.M.K. etc. flourish on the people's sentiments for their language or culture. Their demands generally relate to the creation of autonomous States or changing existing political boundaries. In certain cases they intensify conflicts between the Centre and the States, but the fact that they look to the Centre for fulfilment of their demands enhances the prestige of the Centre.

'Apart from their efforts for the realisation of religious objectives, religious associations are pressure groups that enable members of communities to secure social mobility, political power, and economic advantage. Working through existing parties or forming their own, they attempt to have their members nominated for elective offices. They try to maximize their representation and influence in state cabinets through legislative and administrative channels. The religious pressure groups press for action for the welfare of their members in the educational and economic spheres. Thus, they run parallel to the political organisations which exert constant pressure for the realisation of the goals set by religious groups.'¹

Religious Groups in Kerala : An Illustration. Kerala is no exception where religious pressure groups have a major role in making and unmaking governments. One of the causes for political instability in Kerala is the activity of religious pressure groups. In Kerala, religious groups have tended to shape party strategy and political behaviour. The first general election was held in December 1951 and January 1952. After the election, a coalition government was formed. Religious groups played a dominant role in the election of the Congress President and the formation of the new cabinet. The analysis of the election result indicated that the principal Hindu communities had deserted the Congress and supported the communists, while the Christians became the backbone of the Congress. The mid-term election in February 1954 saw the shifting of communal pressure groups to different parties, such as the PSP, Communist, KSP and RSP. A PSP majority government assumed power after

¹P. John, *Challenge of Religious Pressure Groups to the Indian Political System : A Study with Reference to Kerala*, I.J.P.S. Jan.-March 1977, p. 54.

the election. The 1960 elections brought into existence an entirely new political organ in the State ; the Muslim League had assumed greater importance in Kerala politics by this time. The Muslim League was accommodated in the new coalition government. The reaction of religious pressure groups was so prominent in the 1960 Coalition Government that it created two groups in the Congress Party. The Ezhava Chief Minister had to relinquish his office as the result of a combination of Nairs, Christians and Muslims.

'Religious pressure groups function as a challenge in the formation of governments in Kerala. At present there are organisations of almost all communities in the state. The communal organisations are disciplined pressure groups looking after the political, educational and economic interests of their respective communities. Their influence varies according to the wealth and numerical strength of their members. These organisations influence not only the political but also all socio-economic activities including the day-to-day working of the government in the state. In the political field their influence is enhanced by separate political parties sponsored by the most powerful of such organisations. The NSS has the National Democratic Party and the SNDP has its Socialist Republican Party to stand for their own political interest.

'The religious pressure groups do not allow the democratic parties to go forward in implementing policies on the general interest. No party is permitted to rule independently. The party may draw up its programmes, but it cannot implement its party programmes, since the party itself is a heterogeneous (combination of) groups, each of which pulls it in its own direction. This nature of parties is existing at the national level, too. However, it is so organised in Kerala that the governments can only move through the channels prescribed by the religious pressure groups. Constituencies are arranged strictly on communal lines ; and seats are allotted on similar grounds. Politicians are forced to meet the religious heads and they take part in religious activities from time to time so that their political base is strengthened. This intermingling of both the party and religious interests contradict as a result of which governments fall'¹

Associations of Linguistic Communities (Linguistic Groups). The demand for linguistic States received great attention of the Union Government soon after independence. It was in response to such

¹*Ibid.*, pp. 55-60.

demands that the States Reorganisation Commission was set up in 1953 and on the basis of its recommendations States of the Indian Union were reorganised, language being one of the important considerations. Political parties, other than the Congress, capitalised on the sentiment ; and after suffering defeat in elections in bi-lingual Bombay and Punjab, the Congress Government at the Centre had to yield to the demand for unilingual states. However, even after the reorganisation of States, linguistic minorities remained in many States and they continued to press for the absorption of districts or areas in neighbouring States. This topic has been discussed at length in Chapter 21.

Tribal Organisations. Until 1947 such organisations in Bengal were non-existent. It was only after the government programme for their welfare was launched that tribal organisations emerged, and shortly 15 tribal associations came into being. They had no finances and had little organisational structure. Their leaders were non-cultivating tribal landowners, a sort of rural gentry. The leaders often utilised the associations to win popularity and to run successfully for the Legislative Assembly seats allotted to the tribals. Country's best organised party of the tribals is the Jharkhand Party in Bihar, deriving its support from the tribes residing in the Chhota Nagpur region of the State. Assam shares with Bihar the basic problem of dissensions among tribals on the border. The tension in Assam is doubly great because Assam is bounded by Tibet, China, Burma and Bangladesh. In 1956 serious rebellion led by A.Z. Phizo erupted. The demand of the Nagas was for independence from the administrative control of the Assam Government.

The foregoing account of tribal movements in three states, suggested at least three types of tribal accociations: (1) Interest group associations, such as those found in West Bengal, where tribes are concerned primarily with maximising their economic benefits, employment and educational opportunities by influencing government policy and administration. (2) Political parties, such as those found in Bihar, parts of Assam, and in North Bengal, concerned with affecting state policy and administration, and also with winning power within the existing political system. (3) Secessionist political movements, snch as the Naga National Council in Assam. In all three types of situations, it appeared that new tribal organisations emerged with new leaders. 'The extent to which traditional political institutions persist in these tribes and provide internal authority, and the kinds of relationships that exist between traditional tribal political institutions and

these new forms are areas for further inquiry. In short, tribal peoples, who number sixty million, have also become susceptible to pressure group organisation ; but they are far more likely to form separate political parties or, as in the case of the tribal peoples of Assam and Nagaland, secessionist groups.¹

Caste Associations. Caste has provided a far more fertile field for pressure group activities. Traditionally, the caste associations were primarily concerned with the behaviour of their own members and with the preservation of distinctive caste practices. 'They were predominantly local, non-political, and often hardly visible. But caste is a highly adaptive structure, and modern multi-functional and often state-wide caste associations have emerged in response to social, political and economic change. These are sometimes regarded as representing a half way stage between traditionalism and modernity. Their membership is purely voluntary and their leadership sometimes elective. Many of today's powerful caste associations originated in the desire for upward social mobility on the part of economically-prospering castes with a low ritual status. They also provide a variety of service and welfare functions and some have even transformed themselves into joint stock companies, owning plantations, mills, banks, schools, hospitals, hotels, and newspapers.'²

III. Economics Groups

In this category we would include such groups (of people) as have formed their associations/organisations to further their economic interests. The most significant of these are the business organisations, which may be further sub-divided. In this broad category, besides the organised business, we would also include peasant organisations, women's organisations, students' unions, government employees association, professional associations, etc.

Business Organisations. Business organisations are of five types : (i) trade and industrial organisations like those representing the Jute Mills, Sugar Mills and Collieries ; (ii) regional organisations like the Bengal Chamber of Commerce, the Indian Merchant Chamber of Bombay, Southern India Chamber of Commerce ; (iii) community associations like the Marwari Chamber of Commerce and the Muslim Chamber of Commerce ; (iv) employers associations like the All India Organisation of Industrial Employers ; and (v) the 'Peak' associations

¹Myron Weiner, *Politics of Scarcity*, pp. 42-51.

²Hanson and Douglas, *op. cit.*, p. 68.

like the Federation of Indian Chambers of Commerce. Business groups exert considerable influence both on the parties and the Government and the FICCI has the status of a lobbying agent.¹

Business in India has considerable resource to draw upon ; and because it had been able to mobilize at least a portion of these resources, it has become the best organised interest group in the country. It is the only group in India capable of sustained action and continuous day-to-day contact with both the Parliament and ranking heads of Government. However, in spite of its great access to government decision-maker its ability to convert this capital into influence is substantially held in check by a variety of internal organisational and external systematic restraints.

The FICCI. As the apex body today, the FICCI represents, directly and indirectly, the major part of industry and trade, as it speaks for about 100,000 business units—small, medium and big—employing over five million persons. It promotes Indian business, encourages friendly feeling among business community and secures organised action wherever necessary, in all matters affecting Indian trade and industry. It serves as a centre of information keeping the business community in touch with the Government and the latter in touch with the former. It serves as the national agency through which the business community crystallises its views on current economic problems and issues. In short, as the apex organisation of Indian industrial and commercial interests the Federation is the mouth-piece of organised business opinion.

The FICCI as an institution has been active in the country's politics from the very beginning. In the pre-Independence era it portrayed itself as the economic arm of the freedom movement, whose leadership and policy were "wholly in conformity with the views of the Indian National Congress. Its basic objective was to counter the influence of foreign capital on the Government of India and so to win concessions for Indian commerce and industry. Its members contributed heavily to the Congress funds. In the post-Independence era there was some apprehension among leading businessmen over Prime Minister Nehru's commitment to socialism. In spite of that G.D. Birla and the leadership of the Federation continued to associate themselves with the Congress. In their support to the ruling party they adopted a pragmatic line. In the election of 1957, businessmen urged support for the Congress Party. The communists and Socialists

¹A. G. Noorani, (ed.), *Centre-State Relations*, pp. 40-1.

were rejected and the Jana Sangh was disliked because of its extreme communal outlook.

The FICCI continued its practice of inviting leaders of Congress to its headquarters ; and exerted influence upon the ruling party by its heavy campaign contributions. 'Among the apex business organisations the FICCI is considered the foremost by the Government due to its size, diversity and means of access. It has emerged as one of the most modern pressure groups comparable to its counterparts in the Western countries like the United States and UK. It exerts its influence by control over the press, by planting men in Parliament, by lobbying and liaison, by political donations and statistical research. The Government of India itself recognises the importance of the FICCI as a relatively powerful group responsible for a substantial amount of production and industrial growth.'¹

The organised business has legal access to the decision-making in two ways—representation on the consultative bodies and representation in the legislatures. In case the number of their representatives in the House is limited, the capitalists assert through their spokesmen in the House and lobbying in the wings of administration. Thus they influence the rule-making and rule-application functions of decision-making. Through latent pressures they influence the leadership recruitment also. But in rule-making the style of the organised business is particularly manifest. While deciding any major industrial policy or one affecting the interests of the business and industry, their peak organisation is usually consulted. If the Government is not amenable at the rule-making stage, it launches such a crash movement in collusion with the bureaucracy that the whole scheme crumbles down at the rule-application stage.²

'While business in India is politically well-organised its influence on Central Government policy is negligible. The attention of the business community has therefore been directed to the administration of policy and to the more accessible State governments. West Bengal has been described as a State in which business influence on both policy and administration has been considerable. Because it has been able to obtain many of its demands from the government and because leftist parties remain as potential threats, the business community has kept close to the Congress party. Given popular attitudes towards the business community...little effort has been made to create a more

¹Babulal Phadia, *op. cit.*, pp. 75-7 and 103-14.

²B. K. Srivastava, *Pressure Politics in India*, pp. 113-17.

sympathetic public. But the favours that the business receives from the government may not be nearly so important politically as the financial support which the Congress party receives from business.¹

Trade Unions. Unions have had some success in agitating for higher wages, improved working conditions and diminished rationalisation of industry. But much of what unions have won has come through conciliation and arbitration procedures, or through demands upon government legislators, rather than through collective bargaining. If one perceives threats to production as the greatest danger of the trade union movement in a society undergoing planned industrialisation, then the moderate policies of INTUC and the procedures of conciliation and arbitration advocated by government are understandable. Walter Galenson wrote: "These organizations are likely to be highly political and imbued with a radical ideology. They will inevitably impose some costs upon the community and reduce the practicable rate of investment. However, if properly handled, they perform the vital function of channeling worker protest into socially useful forms and help prevent the subversion of democracy. The role of the statesman is to minimise the cost and maximise the positive attributes of nascent Unionism."²

Peasant Organisations. Soon after its formation in 1936, the All-India Kisan Sabha broke with the Congress, as it believed that the Congress ministries were doing very little for the peasantry. During the Second World War, while the Congress leaders were in jail, the Communists gained control of the Kisan Sabha, which again became the instrument of a political party. After independence, other groups also entered the peasant organisation. Congressmen and some socialists turned their attention to the *Bhoodan* movement. The Socialists created the Hind Kisan Panchayat, and the non-Communist Marxist-left parties created the United Kisan Sabha. Although the Congress and other parties have subsequently attempted to found new peasant organisations, yet attempts to unite the peasants organisationally have had to encounter formidable obstacles of village factions, caste divisions and economic inequalities. No doubt, certain peasant organisations exist in the country, but leadership of these organisations is not in the hands of the peasant leaders. The leadership of these organisations is provided from outside.

¹Myron Weiner, *op. cit.*, p. 139.

²*Ibid.*, pp. 100-04.

An all-India peasants organisation, Bhartiya Kisan Union (BKU) was formed in May 1978. Brahma Prakash, a minister in the Janata Government was elected its president and Bhagwan Singh, former high commissioner in Fiji was made its general secretary. It started with the objective of promoting 'class consciousness in the farming community so that it can be mobilised to fight against injustices and exploitation through constitutional means'. The huge Kisan Rally held in Delhi on the birthday of Charan Singh in 1978 made it clear that a new force was coming into being. Peasants possessing land united into one body like a trade Union. It was under the pressure of the peasantry that the Prime Minister, Morarji Desai, thought it wiser to bend before the storm and Charan Singh was persuaded to join the Cabinet as Deputy Prime Minister with the portfolio of finance.

For some years the Farmers Parliamentary Forum has been an exclusive example of an open pressure group avowedly articulating farmers' interest in the Parliament on the American pattern. It is a registered association of the members of Parliament and is dedicated to serve the cause of the farmers. It has a well-organised office with adequate staff in New Delhi. It also has a clearly drafted constitution. The aims and objects of the Forum include : to build up farmers' economy on sound basis ; to train and educate the farmers and the farm labour in methods of modern and scientific techniques ; to encourage the vast mass of agricultural labour to organise themselves into co-operative societies or other effective organisations ; to promote the marketing of agricultural produce ; to suggest and encourage the construction of minor, medium and major irrigation facilities in all parts of the country ; and to persuade the Governments at the Centre and State levels to pass resolutions emphasising the essentials of their agricultural policy,'¹

Landholders (Zamindars) Association. In the pre-independence period there were some associations of Zamindars in the different parts of the country. They exercised their influence on the alien government in order to secure representation in the legislatures and to protect their land-holding interests. They were particularly active after the introduction of provincial autonomy under the Government of India Act, 1935. After independence, zamindari systems were abolished in all the States. Now landowners as such have few formal organisations, but this does not mean that the farm lobby is any the

¹B.K. Srivastava, *op. cit.*, p. 76.

less powerful. Its strength has been frequently experienced by state governments proposing to increase land taxation or introduce an agricultural income tax. Congress has been very well aware of its dependence on the votes and the influence of the more prosperous landowning peasants. With the installation of the Janata Government in 1977, the landed interests by virtue of their number and political pulls became very active and articulate. The president of Janata Party convened a meeting of Chief Ministers to find ways of safeguarding the interests of the landed peasantry, especially sugarcane and cotton growers.

Employees Organisation. Unions of salaried workers and employees are now an important part of the trade union movement. Highly paid employees in banks, in the Life Insurance Corporation, State Electricity Boards and in many other establishments are organised. Some sections of employees in the Railways, the Posts and Telegraphs are also organised on a country-wide scale. Even Secretariat staffs have adopted trade union methods of ventilating their grievances. Officers of the Central Government have formed a confederation of their officers' associations ; and Central Government employees have a confederation. State Government employees also have their own organisations which have come together in a national federation. Government employees, apart from industrial employees like railwaymen and postmen, are not allowed to form unions, so they call their organisations "associations" and not "unions".

'These associations are mainly concerned with the employees' problems of status, promotion, emoluments, etc. The serious lacuna in our system is that the government has recognised employee's right to organise but not yet the right to collective bargaining.' The government employees act on trade union lines mainly because their standard of living has been greatly eroded by soaring prices but their pay scales have not been revised proportionately. Their complaints regarding promotions, confirmation, leave and amenities have not been adequately attended to. Even some of the assurances given by the concerned Ministers in Parliament and legislatures are not duly implemented. Their delegations, prayers and petitions evoke inadequate response.

Youth (Students) Organisations. 'It is felt that students' union should play an important part. At present they are taking part in matters which are not their concern. Influences of politics and trade union activities are dominating today and unless members of such organisations strictly stand aloof from such influences, it will not be

possible to expect useful work from them.¹ Like trade unions, All-India Students' Unions are also affiliated to political parties, e.g. All India Student's Federation is controlled by the Communist Party, All-India Student's Congress is the Youth Wing of the Indian National Congress, and Akhil Bhartiya Vidyarthi Parishad was run by the Jana Sangh. The students sympathetic to the RSS ideology are now working under the banner of Vidhyarthi Parishad.

The students' movement in Gujarat in 1973 was a very conspicuous event. The Chimanbhai Patel ministry was considered responsible for the rampant corruption and the food crisis in the State. The agitating students formed the Navnirman Samiti, which spearheaded the people's agitation, leaving the political parties in the background. The Samiti declared that its struggle would continue not only till the State Assembly was dissolved, but even afterwards till dishonesty and corruption were eradicated. Bandhs and demonstrations were organised in every part of the State; public property was burnt, buses were hijacked, Congress leaders were harassed and Janata curfew was imposed. After one month of agitation, the chief minister had to step down and after some time even the Assembly was dissolved. Similar agitations were launched by the students in Bihar and other parts of the country.

Women's Organisations. Among such organisation the All-India Women's Conference is the oldest and the most important. But it comprises of only educated women, belonging to higher strata. Even working women, women working in agriculture and women performing unskilled jobs are not yet organised on an all-India scale. The task of organising working women nation-wide is hampered by the paucity of data. Only the States of Tamil Nadu and Maharashtra have compiled some worthwhile statistics. They show that women workers in the field, factory and office are mercilessly exploited. Of the 20.3 million women in Tamil Nadu, three million (15 per cent) are engaged in social production and form 22 per cent of the State's labour force. The report of the Tamil Nadu Government's third pay commission (1978) said: 'From 1970, the number of women employees (State Government) has gone up significantly. From 16,000 in 1970, it went up to 45,000 in 1977—from 6.4 per cent of the total to 12 per cent.'

Blatant wage discrimination against women is most discernible in agriculture. For instance in 1975-76, a woman employed for sow-

¹Babulal Phadia, *op. cit.*, pp. 62-3.

ing and transplantation got Rs. 3.10 as daily wages while a man was paid Rs. 4.69 for the same job. More glaring instances are found in the construction industry, where a man may get Rs. 12/- and a woman only Rs. 6/-. In view of the widespread discrimination against women and glaring injustice being done to them, a national conference of the representatives of working women was held in Madras in May 1979, with the object of promoting a women's trade union. Though it was organised under the aegis of the Centre of Indian Trade Unions (CITU), delegates from various women's organisations including those affiliated to INTUC participated. The meeting, attended by some 450 delegates, unanimously adopted a charter of 20 demands and fixed 30 May as "demands day" to be observed by working women all over the country.¹

In addition to the foregoing, there are organisations of the teachers, doctors, lawyers, engineers etc., both at the State and All-India levels. These professional organisations fall within the category under discussion, so far as they carry on their activities for the protection and promotion of their interests. But at the same time such organisations also try to define code of conduct for their members and prescribe academic standards to be achieved by the new entrants to their professions. Indian Medical Association, All India Bar Council, Federation of College and University Teachers are some of the most important in this respect.

IV. Other Groups

Some of the important kinds of other groups may be discussed as follows :

Gandhian Ideology and Social Reform. Many close associates and followers of Gandhiji, even after his assassination, continued to combine politics with social reform. The Gandhians actively built many constructive work societies, which emphasised voluntary efforts at social and economic reform. To achieve some of the objectives cherished by them, they created several welfare associations, for example, Nai Talimi Sangh to encourage basic education in the villages, the All-India Village Industries Association for the promotion of Khadi and village industries, the Harijan Sewak Sangh to improve the lot of untouchables, and the Kasturba Gandhi National Memorial Trust for the advancement of village women, Gandhian Institute of Studies (Varanasi), Gandhi Peace Foundation (Delhi), Gandhi Smarak Nidhi (New Delhi) etc. also deserve to be mentioned.

¹V.G. Prasad Rao, 'Women Organise to Seek Equal Wages', Times of India, 19 May 1979.

Ideological. After the 1969 split in the Congress, those Congressmen, who were opposed to Smt. Gandhi, formed one group—the Syndicate and all those who supported her formed the other group—the so-called Indicate. Thus the split had an ideological base. Increasing pressure went on articulating in favour of the Indicate. Some of the senior ministers, who had a common thinking about socialism in the context of Indian political culture founded the 'Forum for Socialist Action (in short, Socialist Forum) in June 1962. Some communists, who joined the Congress and the so-called Young Turks strengthened the Socialist Forum which was reorganised in 1967. The Forum influenced Congress decisions, for example, the Congress adopted the 10-point economic programme. Thus the Forum became an input in the process of interest articulation function, the output being the various socialist measures. It also performed the function of leadership recruitment, as it was successful in recommending several young like-minded candidates throughout the country to get tickets of the Congress Party.

Several senior Congress ministers, who felt wedged between the pressure of the CPI and the Socialist Forum within the Congress fold, thought it necessary to articulate their interests in a different pressure group to strengthen their position and status. The Nehru Forum was born in July 1972 and its membership soon rose to more than 150 and it aggregated the interests of all classes—from big landlords to small farmers, from supporters of the private sector to those of the public sector. It was a sort of Congress Party in miniature representing diverse shades of opinions. But there was unanimity on one point that they would meet the challenge and counteract the pressure tactic of the Socialist Forum. 'While the Forum for the Socialist Action stood for modernization, the Nehru Forum represented the traditional political culture of India. Both of them started with interest articulation and ended as the structures of interest aggregation, political communication and leadership recruitment. Finally, when they took upon themselves the function of decision-making, the leadership could not withstand their official existence, and the Forums had to pack up.'¹

Promotional. Such groups, also known as "cause groups", exist to promote a particular ideal or cause. A few years ago, some prominent citizens set up a Coordination Committee for Strengthening Democracy under the chairmanship of the well-known radical huma-

¹B. K. Srivastava, *op. cit.*, pp. 71-2.

nist—V.M. Tarkunde. The Committee was formed jointly by the Citizens for Democracy, the Sarva Seva Sangh, the Lok Seva Sangh and the Gandhi Peace Foundation following a general feeling that authoritarian trends and partisan power politics were again emerging on the national scene. It was mainly composed of persons who were associated with the JP Movement and sought to project his policies and programmes. Through their close contacts with the top political leaders of the Janata Party and administrators, they were able to exercise significant influence on the shaping of governmental policies. They also exerted influence on the Government to accept prohibition, adult education and antyodaya as socio-economic policies.

Political. In this category we shall very briefly discuss the role of the RSS, State pressures, Chief Ministers and the bureaucracy. The RSS had been the recruiting ground for the large number of leaders and workers of the Bhartiya Jana Sangh. Members of the RSS worked whole-heartedly for the success of Jana Sangh candidates in elections. The RSS, along with the Jana Sangh, played an important role in the Bihar movement, led by Jai Prakash Narayan. They also worked with utmost zeal for the success of the Janata Party in the Lok Sabha election of March 1977. But after the merger of the Jana Sangh into the Janata Party, the issue of relationship between the Jana Sangh members of the Party and the RSS led to a serious controversy, as a consequence of which the Party split. The RSS volunteers now serve as cadres of the Bhartiya Janata Party.

State pressures have been quite important in shaping the course of Indian politics. The "States" are considered as one of the most important pressure groups. 'In the location of Central projects the States' pressures have played an important role from the very beginning. The States continued to act as a major check on the implementation of the more radical proposals emanating from the Central Government, despite the restoration of strong Central leadership, owing to pressures from the State Chief Ministers. The Central Government could neither reduce ceilings on land holdings nor enact an agricultural income-tax due to the opposition of the Chief Ministers.'¹

Under Nehru, the Cabinet Secretariat did not have great prominence, but in Shastri's transition, it became the nerve centre of political and administrative power in the country. Its later rise tended to be associated with Smt. Gandhi's premiership. The split in the

¹Babulal Phadia, *op. cit.*, p. 42.

Congress, loss of majority in the Lok Sabha, impending mid-term poll and the conflicting interaction between the Right and Left intra-party groups accentuated the difficulties of the Prime Minister, Smt Gandhi. Much of her time was spent on planning to demolish her opponents. When the implementation of the ten-point economic programme, launched by Smt. Gandhi to sustain her progressive image, started crashing, her supporters increasingly criticised bureaucracy for its failure to deliver the goods. It was then that the slogan of 'commitment' was raised. The Prime Minister's Secretariat was strengthened by the addition of P.N. Dhar, as economic adviser. D.P. Dhar was recalled from Moscow and was made chairman of the Policy Planning cell in the Ministry of External Affairs.

The Indian bureaucracy fully allowed itself to be used by the Congress Party for its own ends. 'Some generalisations in this regard are : (i) bureaucracy in the Indian political system enjoys the highest operational base ; (ii) it is an articulator as well as aggregator of interest groups ; (iii) it influences the decision-makers effectively either directly or through the factional leaders ; (iv) it has its spokesmen in the Parliament also to defend its interests ; (v) it contributes to pollute the political culture with corruption and has kept away from the democratic pattern of political behaviour ; (vi) some interests are articulated and aggregated by political parties, while others are articulated and aggregated by bureaucracy ; and (vii) it is exposed to all sorts of lobbying.¹

Conclusion. There is a close relationship between the civil service and pressure groups in the Indian political system, as would be clear from the following points : (a) The practice of consultation between administrators and organised groups ; (b) interest groups can easily create favourable lobbies for their ends ; (c) Indian bureaucracy has allowed itself to be used by the ruling party for political ends ; (d) economic planning and development schemes are implemented by civil servants ; and (e) Indian bureaucracy is able to exercise crucial influence in the corridors of power.

In India lobbying for the United States is done through various means. The American aid programme in India has been dictated by the aims of American global interests. The lobbying for the Soviet Union and East European countries is done mostly at the political level, through ambassadors and their visiting ministers. The influence of foreign lobbies can be seen at various levels of our policy

¹B K. Srivastava, *op. cit.*, pp. 92-95.

and enterprises, for which reasons are : (i) technically we are not developed ; (ii) our inadequate national identity and state of under development ; (iii) our administrative system, in which top posts are reserved for men of certain cadres and lobbies know the future secretaries, joint secretaries and deputy secretaries ; and (iv) our centrally planned economy in which investment decisions are centralised.¹

Some of the known lobbies are : Sugar lobby in Maharashtra and groundnut lobby in Gujarat. When the Chief Minister of Gujarat in February 1979 brought forward a package of tax proposals, in order to meet the huge deficit in the budget, he provoked a near revolt by the farm lobby legislators belonging to the former Kisan Mazdoor Lok Paksha supporting the ministry. The farm lobby wanted him not only to withdraw the proposed levy on cash crops like groundnut, sugarcane, tobacco but also to make changes in the hikes suggested in the sales tax on items and commodities used by the cultivators. The Union Government's decision to turn down the proposals of the Agricultural Prices Commission in 1980 and increase the procurement prices of kharif cereals by a hefty margin was plainly a concession to the powerful farm lobby. While the APC had recommended a hike of Rs. 5 per quintal in the procurement rate for paddy and Rs. 2.50 in that for jowar, bajra, maize and ragi in its supplementary report, the Government jacked up the rate by Rs. 10 for all these grains. It claims, as its spokesmen had tried to make out, that an increase of that order was necessary to help the farmer meet the increased costs of diesel and fertilisers. But the APC in its revised report had taken the recent rise in the cost of these and other inputs fully into account.

¹Babula! Phadia, *op. cit.*, pp. 142-47 and 167-75.

CHAPTER 21

Language Problem

I. Statement of the Problem

The language problem became acute in the present century. Nationalist leaders thought that by promoting the cause of Hindustani as a national language, they would be strengthening the unity of India and by helping the regional languages to develop, they would be strengthening the national struggle for freedom. The most important factor which led the nationalist leaders to formulate a national language policy was the patriotic sentiment against the foreign rule and the domination of an alien language in all the spheres of country's life, creating an exclusive class and oligarchy of English-knowing people, who behaved as the natural superiors of the masses.

Gandhiji placed the issue at the heart of the national movement. He said in 1918 : "It is my humble but firm opinion, that unless we give Hindi its national status and the provincial languages their due place in the life of the people, all talk of Swaraj is useless." Two years later Gandhiji asserted that as political knowledge and education grow, it would become more and more necessary to use a national language.¹ Under his leadership the Indian National Congress became a mass movement, particularly because it approached the people in their own languages. In 1920 the Congress reorganised its provincial committees on the linguistic basis. The authors of the Nehru Report were "strongly of the opinion that every effort should be made to make Hindustani, the common language of the whole of India as it is today of half of it." Since culture depends on language, the report said : "It becomes essential therefore to conduct the business and politics of the country in a language which is understood by the masses. So far as the provinces are concerned, this must be in the provincial language. . . . Provincial languages will have to be encouraged."

¹M K. Gandhi, *Thoughts on National Language*, pp., 14-7.

For Jawaharlal Nehru it was axiomatic that the masses can only grow educationally and culturally through the medium of their own languages. He very rightly thought that although English would remain an important language for Indians because of their past associations with it as well as because of its present importance in the world, yet it could never become the language of the masses. In 1925 the Congress adopted Hindustani as the official language for its proceedings. Hindustani, which was the language of the masses of north India, was a common denominator of both Urdu and Hindi, the languages of the major communities of India. As a matter of fact, Hindi and Urdu were two forms of the spoken same language, i.e. Hindustani. Thus, it bridged the gulf between the two great communities. It is worth noting that the choice of Hindustani as the prospective national language or *lingua franca* did not affect north south relations in any significant measure. The propagation of Hindi (as Hindustani) in the non-Hindi areas was taken up by voluntary organisations without much opposition.

Gandhiji and other nationalist leaders advocated the reorganisation of Indian provinces on a linguistic basis. The vital and absolutely democratic principle underlying this advocacy was that active participation by the people in administration was indispensable for democratic development and that this could be achieved best in unilingual provinces. Moreover, the full development of each language also required that it should become both the medium of instruction and the language of administration.

Karat Prakasha's view on the subject may briefly be stated as follows : The development of the struggle for linguistic states should be seen as a stage in the anti-imperialist and anti-feudal struggle waged by the Indian people. Where these components were knit together, the struggle for national rights acquired mass force as in the Telengana fight for freedom and Vishal Andhra; in other places it remained a partial bourgeois-nationalist phenomenon. The earliest demands for linguistic states were voiced by the literary and intellectual stratum of the regional bourgeoisie and landholding groups. The Sahitya Parishads of Karnataka, Kerala, Gujarat and the Andhra Mahasabha were predominantly petty bourgeois in the early decades of the century.

In the case of the Kannada-speaking region, the Kannada Sahitya Parishad was founded in 1915. But by the 9th session of the Kannada Sahitya Sammelan held in 1923, a resolution was moved calling for the unification of Karnataka and to develop Kannada language and

culture. Ideas were on the threshold of action and soon it matured into the political. During the Belgaum session of the Indian National Congress in 1924, the Karanataka Ekikarana Sangha was formed. From then onwards the struggle developed on the political plane. This pattern was duplicated in various other nationalities. In the case of Andhra, the Andhra Mahasabha founded in 1913 carried on the major work for the propagation of an Andhra state, mainly through meetings, conferences and resolutions. 'It was primarily a culture movement running libraries and schools for the protection of Telugu and a lot of liberals participated actively in this forum. It received a great fillip in Hyderabad where the Nizam suppressed it and it became very popular in the protection of Telugu against the imposition of Urdu.¹

Before the Constituent Assembly. The Assembly split over the language issue into two groups—the pro-Hindi extremists who wanted Hindi alone as the national language as well as the second language of the provinces, and the pro-English moderates who maintained that Hindi should become the official language but it should not touch the position of the other languages. It should be no more than a first among equals and that the other languages should also be recognized as national languages. The Assembly framed the language compromise formula during the period from 1 August to 14 September 1949. The Draft Constitution which appeared in February 1948 was conspicuous by the absence of any language provisions like the previous draft prepared by the Constitutional Adviser. The issue figured prominently during the general discussion on the Draft Constitution. A sharp difference of opinion cropped up and the pro-Hindi and pro-English groups clashed together. The leaders in the Assembly deferred the discussion of the language question in search for a just and lasting solution.

The most important landmarks of this period was the Congress Working Committee's resolution of 5 August 1949, which contained a coherent policy statement on this issue, laying down the framework for the compromise effected later. Each province was to choose its own language, which should be used in the courts and for administrative purposes and as the medium of instruction at all levels. In bilingual areas minorities' languages were given certain rights subject to certain limitations. Regarding the national language, the resolution stipulated vaguely that there should be "a state language in

¹Karat Prakash, *Language and Nationality Politics in India*, pp. 29-37.

which the business of the Union will be conducted." When the Assembly re-assembled on 8 August, it confronted a flood of motions of amendment to the Draft Constitution in favour of Hindi in Devnagari script. The next day the moderates came out in opposition and in the Congress Assembly Party's meeting that day insisted that English should be used as the official language for at least fifteen years and opposed the progressive substitution of Hindi during this time. They, however, conceded that by a two-third majority Parliament could authorize the use of Hindi in addition to English in the traditional period. The meeting, eventually, decided that Hindi with Devnagari script should ultimately be the official language of the Union. But on various other issues divergent views were expressed, for instance, over the meaning of Hindi. Nehru asserted that Hindi should be defined as having the style and form of Hindustani. To resolve the differences the meeting appointed a committee to draft a compromise provision.¹

Arguments in Favour of Hindi. The only Indian language which could claim the status of *lingua franca* of India is Hindi. The grounds were: (1) The number of people speaking Hindi (in the sense of Hindustani) is definitely greater than any other language. Over 72 per cent of the people in this country speak Aryan languages. Nearly fifty per cent of the 72 per cent have accepted either Urdu or Hindi as the language of their education, literature and public life, although they may be speaking other languages at home. (2) The labour force for the non-Hindi States like Assam and Bengal comes from the Hindi region, particularly from Bihar and Uttar Pradesh. (3) The Sadhus, (mendicants) from the North go to all pilgrim centres in the south like Tirupathi in Andhra, Kanchipuram, Madurai and Rameswaram in Tamilnad and carry on conversation in Hindi. (4) A new force which is responsible for the spread of Hindi is the cinema. (5) Before 1947, the Indian National Congress carried on propaganda in favour of Hindi as a national language. (6) Dravidians in the south have always followed the lead of the North in all pan-Indian matters. From the very beginning of History, Aryan languages have been accepted and admitted in the south. Sanskrit was always there and hundreds of Sanskrit words have peacefully penetrated into the south Indian languages and become an inalienable part of them. In the city of Madras, Dakshina Bharat Hindi Mahasabha was established for the propa-

¹M. Mahmood, *The Evolution of Official Language Policy in India : 1947-67*, J.C.P.S. Apl-June, 1975, pp. 158-60.

gation of Hindi. The Sabha conducted classes in Hindi and conducted examinations. As early as 1928 the universities of Andhra and Madras introduced Hindi as the second language in colleges. (7) Hindi has also some amount of religio-cultural influence. Kabir, Tulsidas, Mirabai and Surdas, the great Hindi poets were venerated and respected outside Hindi area. (8) Muslim and Hindu military adventurers from North India took with them the dialects of western Hindi and Punjabi to the Deccan and established five important Muslim States—the Bahmini Empire, Bijapur Golkonda, Berar, Bidar and Ahmadnagar. The Muslim nobility of these kingdoms continued to speak Hindi or Hindustani. (9) In the present century, the Nizam of Hyderabad spent crores of rupees to make Urdu as the sole language in his state. The activities of the Nizam's government for the propagation of Urdu had their impact on the neighbouring areas, particularly in the ceded districts of Andhra.¹

Case against Hindi. The critics emphasised these points : (a) It was only one of the regional languages, which stood inferior in prestige and literary development in relation to some of them like Tamil, Telugu, Kannada, Bengali (b) Hindi would place the Hindi-Speaking people in a dominant position in relation to non-Hindi people. The fears of the non-Hindi people against what they called Hindi imperialism were subsequently justified by the denial on the part of the Hindi enthusiasts of the recognition within the Hindi region of any other language other than Hindi. It would suffice to point to the treatment meted to Urdu in U.P. and Bihar. (c) So far as the character and content of the Hindi were concerned, instead of being made easy, expressive and upto-date, Government's language planning efforts were profoundly influenced by the orthodox Hindi scholars.³

¹Venkata Rao, *Language Politics in India*, I.J.P.S. July-Sep., 1970, pp. 206-07.

²Also see : C. Rajagopalachari wrote in the Hindu in 1959 : 'Hindi falls short of the mark as a standard national language because it lacks sufficient prestige. The official figure of 160 million "Hindi" speakers actually includes a plethora of Hindustani, Urdu, Punjabi, and other dialects, mostly spoken by illiterate peasants and often having less affinity with one another than with the neighbouring dialects of other languages. As one of India's most influential writers on the question of a national language puts it : "The fact is that Hindi is not even a good regional language. There is a lot of synthesis yet to be done among the dialects of Hindi." Roseman et al, *Dimensions of Political Analysis*, p. 136.

³M. Mahmood, *op. cit.*, p. 163.

In short, the language problem had these aspects : (1) The need for a national language, Hindi has been accepted as the official language of the Union (i.e. recognised as the link language) ; but English continues as the associate language (even after the period of 15 years) and that is likely to have that status for many years to come. (2) Development of the regional languages. Fourteen languages, besides Hindi, have been recognised as the national languages for various regions of the country. (3) Adoption of official language for the Supreme Court and the High Courts. (4) Language of instruction (i.e. education at the different stages.) (5) Question of a common script. (6) Special provisions for the promotion of Hindi and safeguards for linguistic minorities. (7) Reorganisation of States on linguistic basis. These aspects, with special reference to their bearing on the politics of the country have been discussed in the following sections.

Hindi-Urdu Controversy. But before proceeding further, a brief reference to the Hindi-Urdu conflict may be made here. 'In the eyes of the more militant Hindu supporters of Hindi as the sole official language of India and the north Indian states, this attachment of Muslims to Urdu and its script is an attachment to a "foreign" script and an alien culture by a communal minority whose loyalties to India are suspect. Urdu supporters deny this charge and argue that Urdu is as indigenous as Hindi itself, that it was born in India and is understood throughout the sub-continent. Moreover, it is argued that Urdu is not the language of Muslims only, but of Hindus and Muslims alike, and that it reflects a heritage 'of brother-hood between the two big communities of the country'. From this point of view, to oppose Urdu is to oppose 'Hindu-Muslim unity' and to go 'against the people of the past generations, who made efforts to develop a composite Hindu-Muslim culture. . . .In short, the demand for the preservation of Urdu is a demand for the preservation and extension of the language and culture of the Muslims of north India. Urdu supporters have chosen to de-emphasize this underlying basis for their demands and to stress instead the cosmopolitan character of Urdu and its supposed contributions to Hindu-Muslim unity.'¹

II. Constitutional Provisions and Safeguards of Linguistic Minorities

CONSTITUTIONAL PROVISIONS

Language of the Union. Hindi in Devanagiri script is to be the official language. The form of numerals to be used for the official

¹Paul R. Brass, *Language, Religion and Politics in North India*. p. 186.

purposes will be the international form of Indian numerals (i.e. 1, 2, 3, 4, 5 etc.). But for a period of 15 years the English language shall continue to be used for all those official purposes for which it was being used before the commencement of the constitution. However, the President can, during the said period of 15 years, authorise the use of Hindi in addition to English or the Devanagri form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union (though generally speaking, numerals to be used shall be the international form of Indian numerals.) Further, notwithstanding anything in this article (343), Parliament may by law provide, for the use after the said period of 15 years, of (a) the English language or (b) the Devanagri form of numerals for specified purposes.¹

Regional languages. The Legislature of any State, subject to constitutional provisions, may by law adopt one or more of the regional language or Hindi as language for use for all or any of the official purposes of that State. But, until the State Legislature otherwise provides, English shall continue to be used for such State official purposes as it was being used before. Authorized official language of the Union for the time being shall be official language for communication between the Union and the State or the different States. However, if two or more States agree to the adoption of Hindi as official language for such communication, it may take the place of the official language of the Union. A special provision has been made for people (minorities) forming substantial proportion of the population of any State. The President, on a demand being made, if satisfied that a sufficient proportion of State population uses a spoken language, direct that such language shall as well be officially recognised throughout the State or any part thereof for the purpose specified.²

Official Language of the Supreme Court, High Courts, etc. Notwithstanding anything in the foregoing provisions and till Parliament otherwise provides (a) all proceedings in the Supreme and High Courts, (b) authoritative texts of Bills introduced and Acts passed in the Legislature, of ordinances and rules, regulations etc. under this constitution or laws made by Legislatures, shall be in English. However, with the previous consent of the President, a Governor may authorize the use of Hindi or any other official language of the State for use in proceedings in the High Court having its principal seat in

¹Article 343.

²Articles 345 and 346.

that State. But such provisions cannot extend to judgments, decrees or order passed or made by the High Court. However, if a State Legislature prescribes a language other than English for the use in Bills, Acts, etc., a translation of the same in English published under the authority of the Governor in the State Official Gazette, shall be deemed to be authoritative text thereof in the English language under this article.¹

During the period of 15 years, no Bill or amendment making provision for the language to be used for any of the purposes (mentioned in clause (1) of article 348) could be introduced or moved in either House of Parliament without the previous sanction of the President ; and he was not to give his sanction for the said Bill or amendment, except after he had taken into consideration the recommendations of the Language Commission,² (to be appointed under article 344).

The Language Commission and Parliamentary Committee. At the expiration of 5 years from the commencement of the Constitution and thereafter at the expiration of 10 years, the President shall appoint a commission consisting of a chairman and members representing the several regional languages. The duty of the commission will be to make recommendations to the President regarding the following : (a) Progressive use of Hindi language for Union official purposes, (b) restrictions on the use of English for Union official purposes, in article 348 (proceedings in the Supreme Court etc.) (c) language to be used for all or any Union official purpose, (d) form of numerals to be used for all or any specified Union official purposes, and (e) any other matter referred to the Commission by the President.

But the Commission, in making its recommendations is required to have due regard to the industrial, cultural and scientific advancement of India and the first claims and interests of persons belonging to the non-Hindi speaking areas in regard to services. In addition, a Parliamentary Committee of 30 members -- 20 from the Lower House and 10 from the Upper House—shall be elected by members of Parliament. The function of this committee shall be the examination of the recommendations made by the Commission and report their opinion on them to the President. After considering such report the President may issue directions in accordance with the whole or any part of their report.³

¹Article 348.

²Article 349.

³Article 344.

Special Directives. The constitution directs that every person is entitled to submit a representation for redress of any grievance to any Union or State authority, in any of the languages used in the Union or the State as the case may be. Further, it shall be the duty of the Union to promote the spread of Hindi language, to develop it so that it may serve as a medium of expression for all elements of the composite culture of India and to secure its enrichment without interfering with its genius, forms, style and expression used in Hindustani and in other Indian languages, and by drawing if necessary or desirable for its vocabulary, primarily on Sanskrit and secondarily on other languages. The 42nd amendment of 1976 inserted article 350B, which says : 'There shall be a special officer for linguistic minorities to be appointed by the President. It shall be his duty to investigate all matters relating to the safe-guards for linguistic minorities under this constitution and report to the President upon those matters at such intervals as the President may direct, and the Parliament shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the State concerned.

Regional Languages as specified in 8th schedule are the following:

1. Assamese 2. Bengali 3. Gujarati 4. Hindi 5. Kannada 6. Kashmiri 7. Malayalam. 8. Marathi. 9. Oriya. 10. Punjabi. 11. Sanskrit. 12. Tamil. 13. Telugu. 14. Urdu. 15. Sindhi (added later).

Safeguards for Linguistic Minorities. In addition to the foregoing provisions contained in Part XVII of the Constitution, articles 29 and 30 of the Constitution (in Part III) provide certain safeguards to minorities (whether religious or linguistic). These provide : Any section of the citizens residing in the territory of India or any part thereof having distinct language, script or culture of its own has the right to conserve the same. No citizen can be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them (Article 29). All minorities, whether based on religion or language, have the right to establish and administer educational institutions of their choice. The State cannot, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language (Article 30).

These guarantees assure the minorities that as linguistic or cultural groups they can preserve their identity and as individuals their dignity and worth. But the linguistic chauvinism unleashed by creation of separate homelands for some language groups, the disadvant-

ages and dangers for the linguistic minorities implicit in the switch-over from English to regional languages in almost all the States for administrative and educational purposes and the failure to evolve a common national language and a common national educational policy on the medium of instruction threaten the identity of linguistic minorities, prized and protected by the Constitution-makers.¹

Safeguards in Operation : Some Cases. With regard to Kerala Education Bill, 1957 the Supreme Court held that "the purpose of conserving their religion, language or culture and also the purpose of giving thorough and good general education to their children" can be realised only when the state recognizes and aids minority institutions. According to the Kerala Education Code, students passing out from unrecognized schools "are not permitted to avail themselves of the opportunities for higher education in the university and are not eligible for entering the public services. Without recognition, therefore, the educational institutions established or to be established by the minority communities cannot fulfil the real objects of their choice and the rights under article 30(1) cannot be effectively exercised. Similarly "No educational institution can in modern times subsist and efficiently function without some State aid and, therefore, to continue their institutions they have to seek aid. . ." And article 30(1) serves the needs of their community and the scholars who resort to their educational institutions."

In the Guru Nanak University case, the Supreme Court said : "Neither the University nor the State can provide for imparting education in a medium of instruction which stifles the language and script of any section of the citizens." Justice Jagamohan Reddy emphasized in the case that administrative and financial difficulties would not justify infringement of these rights and that the state "must either provide also for instruction in the media of these minorities or if there were other universities then allow colleges (of the minorities) to be affiliated where the medium of instruction was that which was adopted by the minority."

The right to administer an educational institution is not subject to restrictions, not even to those in the national interest. The Court gave this ruling in *Sidhrajibhai*, invalidating a government order directing, on pain of penalty, a minority institution to reserve about eighty per cent of its seats for nominees of the government. The

¹ Mohammad Ghouse, *Safeguards of Linguistic Minorities*, J.C.P.S., April-June, 1973.

Christian Mission in Sidhrajibhai invoked the minority rights to give training in its college of education to the untrained teachers working in its own schools and not to the nominees of the Government of Bombay. As, after training, the teachers nominated by the Mission would work in Indian schools and in India only, it is difficult to see how the Mission's action would injure our national interests. The motivated contention of the counsel for the state mischievously suggested that only non-minority institutions served the nation and its interests. It is for this reason, presumably, that the Court forcefully rejected this argument.

An agreed scheme of safeguards requires a school to impart instruction in the language of a minority on a request of 10 pupils in a class of 40 in a school at the primary stage, and 15 pupils in a class of 60 in a school at the secondary stage. The Memorandum of 1956 of the Government of India advised all the States to allow candidates to take competitive examinations for recruitment to State services in English, Hindi or a regional language spoken by not less than 15 to 20 per cent of the people of the State. This concession will benefit only the Bengalis in Assam and the Hindi-speakers in the Punjab as they form 17.6 and 24.41 of the total population of Assam and the Punjab, respectively. Andhra, Assam, Bihar, Gujarat, Haryana, Kashmir, Madhya Pradesh, Maharashtra, the Punjab, Uttar Pradesh and West Bengal have all changed over from English to regional language. Only Nagaland, completely, and Kerala and Orissa, partially, have retained English as the official language. In most of these States the universities have swithed over from English to regional languages for all except professional courses. Such States cannot pursue any longer the present policy of conducting competitive examinations in English and employing in public services persons not proficient in their official languages with the condition that before completion of probation they must acquire proficiency in their official languages.

Pupils of linguistic minorities have to study more languages than pupils of linguistic majority. In States where the three language formula is followed only nominally the former's disadvantage is greater. Such States prescribe Sanskrit, Hindi and English as the languages to be studied in an institution. They do not provide adequate facilities for the study of the languages of minorities. In these circumstances, a minority pupil cannot study and a minority institution cannot teach in the medium of a language other than the official language of the region. Any obstinate adherence to its own language will now be injurious to the interest of the linguistic minority. Practical considera-

tions, therefore, compel a minority institution to switch over from its language to the regional official language for imparting instruction. The acceptance by the minority institutions of imposition of Telugu as the medium of instruction on all junior colleges in Andhra must be seen in this perspective.

The treatment accorded to the linguistic minorities in public educational institutions is unsatisfactory. The governments have not fully or faithfully implemented the directives contained in the non-fundamental safeguards accorded to the minorities. The Commissioner for Linguistic Minorities has exposed the discriminatory treatment accorded to the linguistic minorities thus : "While in the State as a whole (Uttar Pradesh) the number of school-going children went up in 1963-64 by more than ten per cent from the number of such children in 1962-63, this progress has not been shared by the linguistic minority pupils in the State."

"At the same time the linguistic minorities send their children to educational institutions where the medium of instruction is English and where the regional official language is also taught. Otherwise the fate that overtook the Muslims after 1857 when English replaced Persian as the language of administration and education might now overtake the linguistic minorities, too. Proficiency in English would open for them the doors of higher and advanced education; proficiency in English and the regional language would qualify them for recruitment to public services of the State and the Centre. If they send their children to such schools, they may then be entitled to demand provision of facilities for the teaching of the languages of the linguistic groups as the third language. Such facilities, if provided for all linguistic minorities, will enable pupils of each linguistic minority to learn their mother tongue.

'The fundamental right to conserve language and script and some of the non-fundamental safeguards will be of help to them in prevailing upon the Government of the State to provide adequate facilities for the teaching of the language of every linguistic minority as the third language in every educational institution provided there is an adequate number of pupils. As such facilities may be less expensive for imparting of instruction in the language of every linguistic minority or opening of separate schools and colleges for each of the linguistic minorities, the governments may accede to the demands of the minorities with less reluctance than they have now been showing.'¹

¹*Ibid.*

III. Language as a Factor in the Reorganisation of States

Demand for Linguistic States. On 17 June 1948 the Constituent Assembly appointed the Linguistic Provinces Commission, which expressed its opinion in favour of creating the provinces primarily on the basis of administrative convenience. The linguistic factor, the Commission said, should be considered as a matter of administrative convenience and not a separate objective in itself. After the Commission's report, the Congress Party appointed a committee of three (including Jawaharlal Nehru, Sardar Patel and Pattabhi Sitaramayya) to consider the question in the light of new problems like refugee rehabilitation, reorganisation of boundaries of the former princely states, etc. The committee for the first time spoke adversely of the policy so far pursued by the Congress Party with regard to the formation of the linguistic provinces. It also stated : "We feel that the present is not an opportune time for the formation of new provinces. It would unmistakably retard the process of consolidation of our gains, dislocate our administration, economic and financial structure, let loose, while we are still in a formative stage, forces of disruption and disintegration, and seriously interfere with the progressive solution of our economic and political difficulties.¹ Another aspect of the problem was that the reorganisation scheme was bound to affect the neighbouring areas of Andhra. This was followed by the appointment of States Reorganisation Commission in 1953.

Attitudes of Major Parties. The Congress Party, in its election manifesto of 1951, had stated : "While linguistic reasons have undoubtedly a certain cultural and other importance, there are other factors also, such as economic, administrative and financial, which have to be taken into consideration." The Socialist Party favoured the formation of States on linguistic basis consistently with geographical contiguity and economic viability. The Communist Party clarifying its stand on the problem held that each nationality should be granted a State in the Indian Republic enjoying wide powers including the right of self-determination. The Jana Sangh, which had originally favoured a unitary form of government, in the changed context did not oppose the reorganisation of States on the linguistic principle.²

S. R. C. Report. The linguistic principle received recognition in the formation of most of the States ; but exceptions were permitted in the cases of Bombay and Punjab. The Commission stressed that

¹Report of the Linguistic Provinces Committee, pp. 8-15.

²P.K. Sharma, *Political Aspects of States Reorganisation in India*, pp. 81-2.

it was not desirable to form States on the basis of the single test of either language or culture, but that a balanced approach was needed. One of the points mentioned in favour of its stand was : "To recognise linguistic homogeneity as an important factor conducive to administrative convenience and efficiency but not to consider it as an exclusive and binding principle, over-riding all other considerations, administrative, financial or political." Some difficulty was faced in resolving the disputes in certain States regarding their borders as conflicting claims were made by the parties concerned.

Bilingual Bombay Divided. The Bombay Committee of the All-India Samyukta Maharashtra Parishad decided at Bombay to launch a peaceful and democratic struggle to secure the formation of Samyukta Maharashtra. Pained by the deplorable incidents in Bombay, the Prime Minister warned that violence would not be tolerated. In the following years, the demand of the people of Maharashtra became more clear and forceful. As a result of the public opinion, the Congress candidates were defeated in many constituencies in the region in the general elections of 1957. The Congress also lost seats in the city corporation election. This was a lesson for the Congress Party and a pointer to the Government to change its decision. The new decision was arrived at early in 1960 ; and it provided for the formation of two separate States — Maharashtra with Bombay and Gujarat. The formation of Maharashtra, however, did not help in bringing all the Marathi-speaking people together in the State. About 6.75 lakhs of such people were still left out in the area of Mysore State adjoining the Maharashtra State.

Reorganisation of Punjab. After independence Punjabi was exclusively identified with the Gurmukhi culture and script, i. e. with the religious particularism of the orthodox Sikhs. This impelled large sections of the Hindu community to repudiate Punjabi and to declare Hindi written in Deva Nagri script as their mother tongue. Until the general election of 1957, the Congress Party managed to control the State Government. The Sachar formula aimed at delinking two separate linguistic regions for Punjabi and Hindi in the State for purpose of education. However, it did not provide for the acceptance of Hindi and Punjabi as the Official Languages of Punjab. It was only in 1960 that the Official Languages Act of Punjab established Hindi in Deva Nagri script in the Hindi area and Punjabi in Gurmukhi script in the Punjabi area. 'The Hindu leaders of Punjab interpreted the gradual crystallization of the regional division of Punjab as the progressive victory of the Sikh demands. Thus, while the Sikh extremists acclaimed

the Sachar formula, the Hindi leadership was determined to fight it. In this opposition the leadership of the Hindi movement was drawn predominantly from Hindu particularistic organisations like the Arya Samaj and the Jana Sangh.' A new organisation—Hindi Raksha Samiti—was formed; it formulated a charter of demands and staged its "Save Hindi" agitation in 1957. The totality of language conflict led to the division of the State at the close of 1966.¹ In its report, the Parliamentary Committee on Punjabi Suba suggested that the existing State of Punjab should be reorganised on a linguistic basis. The Government of India accepted "in principle" the report of the Committee and the Punjab Boundary Commission was appointed to make necessary boundary adjustments, in 1966.

'In Punjab, because of its religious (more correctly, communal) composition, the conflict unfortunately developed communal overtones. The Punjabi speaking Hindu trading community, afraid of Sikh domination in a unilingual Punjabi speaking state, opposed the democratic demand for the formation of such a state, while the Sikh communalists also "helped" to vitiate the issue by their efforts to turn the clean Punjabi speaking state demand into a Sikh majority state demand. That is further evidence to show how, in the extremely complicated social structure of our country, even healthy democratic demands and struggles can be vitiated by reactionary elements and forces. But, and this must be stressed, while such evidence underlines the need of a very careful approach to the tackling of such problems, it does not justify running away from them by sweepingly denouncing them as just an expression of "linguism", "parochialism", "communalism", and so on. A competent surgeon does not shirk his responsibility of performing a difficult surgical operation though it may be very complicated.'²

Since the "reorganisation of linguistic states, the feared consequences have indeed followed with great rapidity. English instruction has weakened, notably in greater part of India. The partial maintenance of standards is limited to non-Hindi areas, since it was stimulated by reaction against Hindi. The Hindi programme has almost come to a standstill in some southern areas. More and more states are instituting their regional languages; in 1959 the Mysore universities went over to Kannada; almost all instruction at all levels in Uttar Pradesh, including Delhi, is in Hindi. This is the academic side of

¹Jyotindra Dasgupta, *Language Conflict and Political Development*, pp. 157-58.

²S.G. Desai, 'Linguistic Chauvinism and the Shiva Sena' in *Fascist Menace and Democratic Unity*, p. 49.

India's more generalized and largely regional self-discovery that continues to be a profound national experience, leading at best to what might be called "constructive nativism."

The "reorganization of linguistic states" has raised a series of additional long-range problems. (1) On a per capita basis the little States such as Assam (five million) are drowned by Hindi-speaking aggregates such as Uttar Pradesh. (2) A political drift aptly called "the balkanization of the South and the consolidation of the North" has been set in motion. Specifically, each of the four southern, Dravidian states is turning more to its own language—Tamil, Telugu, Kannada, or Malayalam. On the other hand, the huge Hindi-speaking states—U.P., Bihar and M.P.—are becoming consolidated and tend to be joined politically by other States where Hindi is either also spoken or easily learned (Punjab, Rajasthan, Jammu and Kashmir, and Bombay.)¹

IV. Concluding Observations

Constitutional provisions about language were the result of considerable thought and endeavour to arrive at a compromise formula, generally acceptable to all groups, who were concerned with the vexed problem. The approach of the founding fathers was, therefore, marked by realism and prudence. They decided to replace English by an Indian language (Hindi), which had informally been given the place of a national language much before the attainment of independence. Other regional languages were given their due place. But the implementation of the important provisions regarding the link language could not be achieved because : (a) Sanskritised Hindi (and not Hindustani as understood by Hindi), was adopted; (b) Hindi protagonists wanted the process of implementation to be hastened much against the will of the non-Hindi people particularly of the South; and (c) not only the people of the south but all other groups, opposed to Hindi, joined hands in their opposition, as would be clear from the following observations regarding implementation.

Implementation of Provisions. The Official Languages Commission submitted its report in 1956. It was enthusiastically welcomed in the Hindi region, while it scared the non-Hindi people about the imminent "imposition" of Hindi. The misgivings about this were voiced by two members, who had suggested that the implementation of the policy as laid down in the Constitution should be suspended

¹Jyotindra Dasgupta, *op. cit.* pp. 138-40.

for the time being as it might lead to grave complications and even erosion of national unity. The special committee of Parliament, constituted in 1958, to review the report of the Commission presented its report to Parliament in 1959. It provided a forum for confrontation between the pro-Hindi group and the pro-English group. While firmly endorsing the views of the Official Languages Commission and sticking to 1955 as the time for the change-over to Hindi as the principal language of the Union under the Constitution, the committee 'whittled' down this recommendation by ordaining that there should not be any hurried switch-over to Hindi but the transition should be 'flexible and practical' ; and that English should be continued for such purposes as may be specified by Parliament by law and for as long as necessary.

In an atmosphere surcharged with suspicion and tension, Prime Minister Nehru played a balancing role. During the course of a heated debate over a resolution introduced by Frank Anthony seeking the inclusion of English in the Eighth Schedule of the Constitution and an assurance for its continued use, Nehru made a historic statement in the Lok Sabha on 7 August 1959, and tried to allay the fears of the people of the South by giving an unequivocal assurance regarding the continuance of English as an associate additional language for an indefinite period. An All-India Language Convention met on 11-12 August 1962 ; it had been called to oppose the Government move to designate English as an associate national language. The Convention expressed its great concern that even after 12 years the linguistic provisions of the Constitution had not been brought into operation either at the Centre or in the States.

Official Languages Acts, 1963 and 1967. At the time of the promulgation of Presidential Order 1960, it was promised that to accommodate the claims of the non-Hindi states, English would be retained as an associate official language even after 1965 through an Act of Parliament. Union Home Minister Lal Bahadur Shastri, introduced a Bill in Parliament providing that the English language may be used in addition to Hindi even after 26 January 1965, for the official purposes of the Union and for transaction of business in Parliament. It was finally passed as the Official Languages Act, 1963. However, the Bill did not satisfy the non-Hindi people for they complained that (1) it did not fully honour the assurance given by Prime Minister Nehru for the continuance of English as an associate/alternate language until otherwise decided by the majority of the State legislatures; and (2) it did not make the continuance of English as an associate language obligatory.

C.N. Annadurai declared that the Bill had caused "the greatest disappointment and distress" in all non-Hindi speaking States and that he would not be surprised if opposition to the Bill in the non-Hindi areas took the form of a massive agitation. Among other things, he also stated that the "entire South will revolt" against the 'imposition' of Hindi. In June 1963 the DMK decided to launch a State-wide 'constitutional, legal and agitational movement' against the Official Languages Act as well as against the Constitution (Sixteenth Amendment) Act banning the secessionist propaganda. By October that year plans for a sustained agitation were finalized which included, among other things, the burning of the language chapter of the Constitution. Although few days before the start of the agitation the DMK had given up its plan for the burning of the language chapter of the Constitution, Annadurai and some other leaders were arrested. The anti-Hindi agitation continued upto 13 June 1964, when Annadurai was released. The situation remained tense till 26 January 1965; the date for the switch-over to Hindi when it developed into a crisis. There were State-wide strikes and massive violent demonstrations. The agitation also spread to the States of Kerala, Andhra, West Bengal. The then Prime Minister L.B. Shastri declared in a broadcast on 11 February that the Government fully stood by the assurance given by the late Prime Minister to the non-Hindi States.

The D.M.K. in Madras fought the 1967 elections on the language issue and emerged as the ruling party in the State. The Congress lost power in some other States, too, and the post-election political climate was marked by growing fissures in Centre-State relations and decline of Centre's authority. The Official Language Bill, 1967 along with the Resolution on Language Policy again stirred great controversy and violent agitation both in the south and the north. Initially Madras, reconciled with the idea of bilingualism, favoured the original Bill. But later alternations caused widespread resentment in the non-Hindi States as it was generally thought that the amendments had the effect of whittling down the original commitment. The major demand of the South was that the provisions for the continued use of English should be made mandatory by substituting the permissive 'may' by the obligatory 'shall' in section 3 of the Official Languages Act, 1963. This was not conceded. Instead, the 1967 Act specifically and clearly provided that English will not be abolished until the legislatures of two-thirds of non-Hindi States resolved to accept Hindi as the sole official language. The Official Languages (Amendment) Act, 1967 legalised the assurances on the continuance of the use of English, in

addition to Hindi for all the official purposes of the Union and for the transaction of business in Parliament and for communication between the Union and a State which has not adopted Hindi as its official language.

The fanaticism of Hindi chauvinists threatened to practically split the nation in two—north and south—during the language riots at that time. The agitation, which resulted in the loss of many lives and the destruction of public and private property worth crores of rupees, subsided only after the non-Hindi-speaking people had been re-assured by the Centre that their interests would be safeguarded and the *status quo* retained on the question of the national language. 'Thus Hindi has done more harm than good to the unity of India because the wrong kind of Hindi has taken the pride of place as the national language. From its position of power, it not only swoops down menacingly on the growing forces of other languages in the country, but also wages a continuous battle against the "people's Hindi".¹

'If the popularity of Hindi music broadcast over Vividh Bharati or of Hindi films, the demand for a place in Central Schools or even in the Hindi classes run by the Dakshin Bharat Hindi Prachar Sabha, is any yardstick, the calculated politicalised opposition to Hindi is not so very evident. All the politicalisation of the language issue has not created any hatred for Hindi as such. But every attempt by thrusting Hindi is just being ignored on the basis that the imposition cannot simply be possible in the South particularly in Tamil Nadu, with parties other than the one ruling at the Centre in power.'

'There can be no two opinions that Hindi must some day be the official language of the Union and the link language among the various linguistic groups in this vast country, while English stays on as a library language and India's window on the world of science and technology. But this can happen only when Hindi is developed enough for the purpose and the non-Hindi speaking people are prepared to accept it willingly and voluntarily. Neither condition exists at present and there is therefore no escape from gradualness, however galling this may be to Hindi enthusiasts. Indeed, the harder they try to foist Hindi the greater the damage they would do to their own cause. Time was when Hindi, promoted largely by non-official agencies, was being studied avidly in Tamil Nadu. Now the Tamil Nadu government has notified

¹M.S. Rawat, '*Hindi is its own Enemy*', Times of India, 29 June, 1975.

²T. S. Srinivasan, '*Let Not the Pace Be Forced*', Sunday Standard, 24 July, 1977.

the Centre that Hindi would no longer be taught in its schools'.¹

'Given these complexities, a fair and realistic language policy should seek simultaneously to achieve three objectives : to promote the use of Hindi ; to improve the teaching of English so long as it is, during the transition period until Hindi can replace it, the effective link language—a transition that must inevitably be protracted ; and within each state, to foster the growth of the regional language. Isn't this what the three-language formula is designed to accomplish ? In a sense, yes, but not quite.

'That formula, accepted a decade ago, stipulates the use of the regional language, English and Hindi ; where Hindi is the regional language, any other modern Indian language, preferably a southern one, is to be taught. But the formula does not bind the state governments, charged with putting it into practice, to take English seriously and to promote actively the use and learning of Hindi. As a result, the Hindi-speaking states have encouraged Hindi and deliberately downgraded English. And as for their pushing a southern language, the less said the better !'

'To analyse the reasons for the unacceptability of Hindi, despite all the official support it received in the last 30 years, one has to go back to the historical origins of Hindi. Modern Hindi really emerged as a literary language at the turn of this century. The Hindi classics of the 18th and 19th centuries were in the great dialects of the present Hindi speaking areas : Braj, Oudhi, Maithli, Rajasthani and Punjabi. For instance, Tulsi Ramayana is in Oudhi. As a compromise, Hindustani written in Hindi or Urdu script was recommended as the national language by both Hindu and Muslim leaders including Nehru and Mahatma Gandhi. All India Radio used Hindustani for its programmes and the films used an idiom as near to Hindustani as could be achieved. The basic differences in the vocabulary of literary Hindi and Urdu remained but in the search for a common language they were glossed over.'²

Devanagari as a Common Script. 'The need for a common script for all the Indian languages was advocated by some of the leaders and thinkers of the present century. The pioneers in this respect were the non-Hindi speaking persons. It appears that the first person to advocate a common script for all the Indian languages was Justice

¹'Timely Snub' Times of India, editorial, 15 Feb., 1978.

²A.S. Abraham, 'Re-shaping Language Policy. A New Twist to An Old Formula', Times of India, 3 Aug., 1977.

³S.N. Chib, 'Hindi as a Link Language', Times of India, 23 Oct., 1977.

Sharada Charan Mitra. For the propagation of this idea he founded Ek Lipi Vistar Parishad and edited a journal Devanagari. In 1905, Tilak advocated the adoption of Devanagari script as the common script for all the Indian languages and declared that the Devanagari script was far superior to Roman script. The Tamilians who are now agitating against Devanagari may kindly note that an eminent Tamilian—Justice V. Krishnaswamy Iyer—advocated common Devanagari script for all the Indian languages. On several occasions the Mahatma pleaded for a common script for all the Indian languages. Mahatma thought that common script would bring about national integration. Not only that, it would help the people to learn language or languages other than their own. He also thought that if all books are printed in a common script printing would be cheaper. With a view to achieve this end some of the books in Indian languages were printed in Devanagari. For instance Rabindranath Tagore's *Gitanjali* was printed in Devanagari.¹

Conclusion '...in a multilingual new state the choice of one national language tends to generate intense language rivalry, especially in those situations where it is difficult to assess the dominance—qualitative and quantitative—of one single language. The choice of a national language involves so many political problems that convenience, rationality, and efficiency are not necessarily the decisive criteria. In this sense the problems of language policy have to be considered more from the political perspective than from a predominantly technical view-point.'²

The doctrine that a single language is essential for national identity is hardly relevant to the Indian case, so that language fanatics (in the Congress, the Jana Sangh and the SSP on the one side and the DMK on the other) were steadily moving toward accepting a central position. 'While the language problem is no doubt putting to test India's over-all design of national unity, it is also forcing all parties to accept a pluralist solution, and has lately, after encountering a series of crises, led to important break-throughs in party crystallization.'³

¹Jyotindra Dasgupta, *op. cit.*, p. 21.

²Ibid.

³Rajni Kothari, *Politics in India*, p. 322.

Region and Politics

I. The Problem in its Varied Aspects

The Meaning of 'Region' The term 'region' has several meanings; but the common thread which runs through them is a basic cultural assumption that it is relatively smaller in area than the state/province—the chief territorial division of a country. Thus the word is used to denote a tract of land which is smaller than the state but larger than its basic territorial unit namely the district. The Planning Commission has employed the term to convey such a meaning. The Punjab Regional Committee Order, 1957 and the Andhra Pradesh Regional Committee Order, 1958 used the word in this very sense. "The essential fact is that a region is characterized, more than anything else, by a widely shared sentiment of 'togetherness' in the people, internalized from a wide variety of sources, which might even include common prosperity, camaraderie developed in a common struggle, etc. At the centre of regionalism is a more or less intense sense of identity which is not less real to the people than the feeling of belonging to a particular state or nation or to a language group."¹

Linguistic States. It was mainly on account of regional diversities that the founding fathers of the Indian Constitution adopted a federal Constitution, which grants a sufficient measure of autonomy to the constituent States. The Constitution also recognised 14 regional languages, as included in the Eighth Schedule. Since language constitutes one of the most important elements of regional identity, the demands for the reorganisation of States on linguistic basis became so strong that the Government of India had to appoint a State Reorganisation Commission in 1953. However, the language was accepted as one of the important bases, but not the sole basis for the reorganisation of States. In course of time, the bilingual States of Bombay and Punjab were split into two mainly on the basis of language. Later,

¹Shriram Maheshwari, '*Regionalism in India : Political and Administrative Response*', I J.P.A., Oct.-Dec. 1973, pp. 441-42.

the entire north-eastern region was reorganised; but even the newly created sub-regional units, having the status of States and Union Territories have not fully satisfied the aspirations of their people. The reorganisation of States created the problem of linguistic minorities for which the Constitution has provided necessary safeguards. Even at present, in some of the large States there are well-marked regions, for example, Vidarbha in Maharashtra, Telengana in Andhra Pradesh, Chattisgarh region in Madhya Pradesh, Jharkhand in Bihar and Uttarakhand, Bundelkhand, etc. in Uttar Pradesh. Inhabitants of these regions are not satisfied with the present political units and programmes of economic development.

Regional Disparities. At the All-India conference on Regional Disparities, April 1978, E.M.S. Namboodripad and Bhupesh Gupta (both CPM) accused the Centre of not giving the States sufficient autonomy and power for development. Monopoly capital, they said, had increased regional disparities. Industries were located in areas chosen by the capitalists, and twenty top business houses controlled the economy. Ashoka Mehta, who presided over the conference, remarked that sustained rate of growth had helped improve the economy in the West, but in India we had not been able to increase the economic growth rate from 3.5 per cent a year. He suggested the adoption of a coherent strategy of development as well as region wise micro planning. All speakers were unanimous that the regional disparities were increasing. Taking the per capita state domestic product (SDP) as an indication of economic development, it was pointed out that Punjab, Haryana, Gujarat, Maharashtra, West Bengal, Himachal Pradesh and Karnataka were among the top seven States of the country both in 1970-71 as well as in 1975-76. In the same period Bihar, U.P., M.P., Jammu and Kashmir, Orissa, Assam, Tripura stayed on the lowest rung of the economic ladder. While the per capita SDP of Punjab was one-and-a-half times that of the per capita income of India as a whole, Bihar's SDP was just two-thirds of the per capita national income in both years.¹

Thus language and economic disparities are the two most important aspects of the problem. The third important aspect is the demand for smaller States, i. e. carving of new States, e. g., Jharkhand in Bihar, division of U. P. into Uttarakhand, Western and Eastern etc. The agitation in Assam against foreigners (i. e. non-Assamese) and in Punjab for the creation of Khalistan also have some of their

¹Times of India, 19 April, 1978.

roots in regionalism, as will be clear from their discussion in sections III and II respectively. 'However the more serious problems confronting India's territorial integrity come from the unassimilated tribal periphery in the northeast region in the country. Here too the processes of political competition and governmental penetration are opening up the possibility of greater assimilation through politicization. But such integrative tendencies are still at an early stage, modernization also tends to create awareness of separate identities and the situation calls for considerable ingenuity in the development of new patterns of federal associations.'¹

Regions and Constitution. Importance of the problem can also be gauged from the various ways in which regionalism has found a place in the Constitution of the country. A validity of the regional identity is accepted in an implied way by the Constitution itself, because article 3 explicitly provides for the creation of new States by a majority of those present and voting in Parliament and by a ratification by a majority of the States in the Indian Union. A large-scale reorganisation of the States was undertaken in 1956 and a few others were subsequently reorganised in 1960, 1967, 1971 and 1972. '....Such a provision entails profound implications and consequences so far as regional renaissance in India is concerned. It serves to hold the hope of statehood to regional personalities. It also tends to weaken the position of the State government *vis-a-vis* such sub-state centrifugality....Taken all together, a region is a potentially powerful entity in Indian politics.'

In practice also selected regions in some States have secured varying measures of recognition. This governmental response has assumed three principal forms. The structure visualized for a particular region might be assigned purely or substantially coordinational responsibilities in specified matters for the region concerned, an example of which is the Rayalseema Planning and Development Board. The other examples of such coordinating bodies are the development boards for Bundelkhand and the hill districts in Uttar Pradesh, for Vidarbha and Marathwada in Maharashtra, for Saurashtra in Gujarat, for north and south Bihar in Bihar and for Laddakh in Jammu and Kashmir.

There could also be a political apparatus in the form of a sub-legislature clothed with a measure of financial authority. The Andhra Pradesh Regional Committee (popularly called the Telangana Regional

¹Rajni Kothari, *Politics in India*, pp. 331-32.

Committee) is a striking example of this style of governmental response, others being the Hindi and Punjabi Regional Committees which functioned in Punjab from 1957 till 1967 when the State was bifurcated into Punjab and Haryana. The third form in the State Government's regional recognition is best depicted by the one-time (1970-72) Meghalaya, which became a sub-state within the state of Assam. The institutions of the latter two categories acquire a distinctly special character in as much as they can be ushered into formal existence only by the Central Government. This marks them off the bodies falling in the first category which may be set up by the concerned State Government itself.¹

Militant Regionalism. A very alarming phenomenon arose on the Indian scene before the general elections of 1967, in the form of politically oriented organisations called Senas (armies) in various parts of the country, as "expressions of intense regional feelings". The growth of private political *senas*, such as Lachit Sena in Assam, Subhas Sena in West Bengal, and Shiva Sena in Maharashtra, in addition to many other similar organisations, big or small, operating in the different States, reflected "parochialism run mad." However, among all these parochial organisations, Shiva Sena of Maharashtra, is the most important, about which something more may be said here. It had its birth in Bombay in June 1966, as a "militant, fascist and reactionary organisation."

Its ideological position gives a strong impression of its being a stern parochial and anti-communist organisation dedicated to the economic and social welfare of the Marathi people. It earned in no time a notorious distinction not by its ideology but by its activities. Its huge processions and demonstrations, initially claimed to be directed against the communists, signified unleashing of an indiscriminate rampage of everything that Bal (its founder) detested. The Shiva Sena took no time in promoting itself from the status of a pressure group to a political party. In the elections of Bombay Municipal Corporation held in March 1968, it captured 53 seats in an electoral alliance with the PSP, being next to Congress with 66 seats.² In the following sections we would discuss some of the most important problems arising mainly or partly from regionalism.

¹Zonal Councils (discussed in chapter 11) have been established to bring about coordination in the development activities of the States and Union Territories in a particular zone (region).

²See J.C. Johari, *Reflections on Regional Politics*, Chap. 7.

Concluding Observations. One indication of how regionalism has come to be accepted as a valid political force is that the word "chauvinism", with much more pejorative connotations, is now hardly used to describe it. At the time of the Samyukta Maharashtra agitation in the mid-fifties, Marathi-speaking supporters of the movement were uniformly dismissed as "chauvinists". The same was true of the Punjabi Suba movement. 'But nothing succeeds like success and it was doubtless the success of these and similar movements that contributed a great deal to conferring respectability on what was hitherto scorned as "chauvinism." Yet, the success of these movements was, in retrospect, inevitable. As the system sought to strike roots in the soil of popular, participatory politics, regionalism, which summed up popular sentiment within linguistically defined boundaries, was the natural outgrowth. What millions of people wanted in a set-up that claimed to be founded on their consent could not for long be belittled and denied.

'If regionalism is now coming into its own, what does that say for the cohesiveness of the nationstate? Will things fall apart as the Centre cannot hold? Will sons-of-the-soil policies govern jobs, interstate migration, and the exodus of villagers from one state to urban magnets in another? Will river waters, natural resources, the drawing of interstate boundaries, the siting of projects and all the desiderata of development become subjects of internecine contention made more bitter by the absence of a strong mediatory Central authority?

'In Karnataka, the Hegde government has made it clear in its statement of policy that Kannada will be given primacy in all matters, that while the minorities will be given incentives to learn and use it, they must learn Kannada if they want to get on in the state, that English will be discouraged and Hindi effectively given the go-by. In Andhra, Telugu is being similarly installed in a position of unchallengeable primacy, while the state itself is to be enamed "Telugu Nadu".

In Punjab, the Akali Dal has got the Centre to agree to review the existing accord on sharing the Ravi-Beas waters, a prospect that will please Punjab but can only discomfit Haryana and Rajasthan, the two other riparian states. In Assam, the recent elections had become the arena of violent confrontation between the administration and the anti-"foreigner" agitationists determined to disturb them. There is talk, too, of the three southern states with non-Congress (I) governments—Andhra, Karnataka and Tamil Nadu—forming an informal "bloc" as a means of exerting greater clout collectively than

they now can individually on the Centre and on other states in the competition for resources and generally to safeguard their interests.

'Is all this not a more than slight indication of the shape of things to come? Is it not already more than the thin end of the wedge? Will not regionalism legitimise Shiv Senas and Kannada Chaluvaligars with all their hateful parochialism? How long will it be before a more and more vulnerable Centre is forced under the collective pressure of the states to rewrite the constitution so as to shift the balance of powers in favour of the states? Such questions are not to be dismissed lightly, just as they ought not to make us panic. Even as regionalism is becoming the dominant force—as pan-Indian centralism has been and still is, if diminishingly so—the onset of development is in a myriad ways binding the country together as never before. Communications, transport, the growth of a national market, the demands of science and technology, industrialisation, market agriculture, a broadly uniform educational system, these are the sinews of cohesive growth. No party or leader, however much of a dyed-in-the-wool regionalist he may be, can escape these compulsions. Even to try to do so would be suicidal.'¹

II. Punjabi Suba—Khalistan—Demand

Demand for Punjabi Suba. The Shri Gurudwara Prabandhak Committee (SGPC) is the largest and the biggest non-governmental organisation in the Punjab and the pre-eminent institution of the Sikh community. It was founded in October-November 1920, as a committee to manage the affairs of the Gurudwaras. In the period between its formation in 1920 and the passage of the Sikh Gurudwara Act of 1925, by which SGPC control over Sikh Shrines was formalised, the SGPC and its action arm—the Akali Dal—sponsored a number of agitational movements connected with Gurudwara reform at various places in the Punjab. 'The Akali Dal is one of the oldest and most successful regionally based political organizations in India. It has been the spearhead of all political demands made on behalf of the Sikhs for the last half-century.'

In a statement issued to the Press at Amritsar, on 7th July, 1961, Master Tara Singh, said that the Akalis were not agitating for a "Sikh State", which he characterised as "sheer madness". "We aspire to achieve a Punjabi-speaking State carved out of the Punjabi-speaking

¹A S. Abraham, 'Reflections on Regionalism : Natural Outgrowth of Mass Politics, Times of India, 29 Jan., 1983.

areas and forming a contiguous unit and having the same status as any other State of India" he added.¹ The demand for Punjabi Suba was opposed by the Hindus whose opposition was spearheaded by the Arya Samaj, a votary of Hindi language. The more orthodox Hindu groups opposed the imposition of Punjabi and favoured freedom of choice in the matter of language. They even took the position that the Punjab was primarily a Hindi-speaking State, in which Punjabi should have been recognised only as a minority language. In September 1965 the Home Minister repudiated Master Tara Singh's demand for an independent Sikh State. He said: 'No demand which impinges in any manner on the sovereignty and territorial integrity of the country, can possibly be given any consideration'. However, the Government of India accepted "in principle" the report of the Parliament Committee recommending that Punjab be reorganised on a linguistic basis. A boundary commission was appointed to demarcate the boundary on linguistic principle with utmost care and impartiality. The two States of Punjab and Haryana came into being on 1 November 1966; Chandigarh was constituted into a Union Territory, where the capitals of both the States were located. The regional interest suppressed the other interests in the policy of the Jana Sangh of Punjab, when it aligned itself with the Akali Dal and other groups in regard to the integration of Chandigarh in Punjab. A claim has also been made to extend the territory of Haryana by including certain adjoining areas from neighbouring States, in order to achieve the formation of 'Greater Haryana.'

The Demand for Khalistan (Home-land for Sikhs.) It began modestly as a demand for a Punjabi Suba but has now assumed the gigantic dimension of a movement for a separate, sovereign Sikh State.² The advocates of Khalistan hold that Sikhs are a nation. On 13 October 1971, Dr. Jagjit Singh Chauhan inserted a half page advertisement in the New York Times detailing the reasons for establishing the Sovereign Sikh State of Khalistan. But nobody paid any heed to the demand; and the slogan for Khalistan remained a cry in wilderness for about a decade. Ganga Singh Dhillon, an Indian-born American national, in his presidential address to the 54th Sikh Educational Conference at

¹ *Indian Affairs Record*, Aug. 1961.

² For a history of the movement and analysis of the circumstances—religious, political and social—which allowed the extremists to take over the Suba movement and convert it into a crusade for secession, with its appendages of murder, violence and terrorism see Sardar S. Singh '*Khalistan: The Politics of Passion*', *Hindustan Times*, 4 Oct., 1981.

Chandigarh in March 1981 described the Sikhs as a nation and advised them to seek "associate membership of the United Nations on the lines of the Palestine Liberation Organisation." His advice was taken seriously by militant Nihangs, obscurantist Sikh Sants and the semi-literate Jathedars. The Akali Dal (Talwandi Group) passed a resolution at Anandpur Sahib on 13 April, echoing the same sentiments.

The secessionists printed a "Khalistan" map, currency, postal stamps and passports. The hijacking of an Airlines boeing to Lahore and the feeling of exultation felt by an overwhelming majority of the Sikh community clearly show that the Sikh secessionists enjoy a large measure of support among the Sikhs. 'Rather than wait and watch the developing situation, pregnant with dangerous ramifications, the national leadership should try to examine Sikh grievances sympathetically and try to remove them as far as possible, and at the earliest.'¹

'Much has been made of the gradual depletion of Sikh representation in the defence services. There is no justification for allocating different proportions to communities or States for recruitment. As in civilian so in the defence services, selection should be based on fitness, both physical and mental. Besides, it should also be borne in mind that the chief cause of lessening Sikh representation in the army is the reluctance of the now prosperous Sikh peasantry to take up jobs where the emoluments are not nearly as good as earnings from agriculture... The Punjab has a plausible case for a fairer allocation of river waters and for the construction of new dams and hydro-electric installations to meet its ever-growing demand for energy. These need not be construed as political demands and can be considered from the technical point of view. A more prosperous Punjab will mean a more prosperous India. But the Akali leaders should also remind themselves that for the realisation of their dreams of a State flowing with milk and honey, they must take their Punjabi Hindu brethren with them. At the moment they are doing their worst to alienate their sympathies'.²

The Home Minister told the Lok Sabha on 1 December 1981 that there could be no talks on the demand for Khalistan, and affirmed the Government's determination to put down with a firm hand all secessionist movements. In August 1982 a Sikh high-jacker of an Indian Airlines Boeing 737 was shot dead inside the plane (This was the third highjacking of an Indian Airlines plane by members of the Sikh community). The Akali Dal (Longowal) launched a morcha in

¹ 'A Sikh State', Ibid.

² 'Punjabi Grievances', Hindustan Times, editorial, 7 November 1981.

August against the Government for the fulfilment of their demands, based on Anandpur Sahib resolution. According to some sympathisers of the Sikhs, Akalis of all shades were virtually fighting for their political survival. Their actions and utterances made them political untouchables, and perhaps Punjab was the only state where parties like the Bhartiya Janata Party and the CPI (M) joined hands with the Congress (I) to fight another opposition party. The strategy of the State Government appeared to be to play the morcha down with the help of the other political parties.

However, the morcha continued with vigour and more than 30 thousand Akalis were made prisoners by mid-October 1982. The Prime Minister directed the State Government to release the Akali prisoners, but those who were released refused to be evicted from jails. The Akali Dal (L) President, Sant Har Charan Singh (Longowal) said on 11 October 1982, the Government was mistaken if it thought Sikhs could be denied religious liberty and equality in matters of citizenship by dubbing them as "separatists" and "extremists". But he made it clear that Sikhs had no designs to get away from India in any manner. The Communist Party of India appealed to the Akali Dal leaders to give up their negative policy of confrontation and respond to the Prime Minister's positive initiative in releasing the Akali prisoners. 'The Akali leadership must make up its mind about what it wants and where it stands if it is to carry conviction not merely to its own ranks but to Indians whose main anxiety is to see an early and honourable settlement in Punjab.'¹

The Government of India accepted the suggestion of some opposition leaders that they should be associated with the negotiations between the Government and the Akali leaders for a peaceful settlement of the problem. The Akali leaders also agreed with the proposal. Two rounds of talks were held, but no agreement could be reached on the main political demands of the Akalis, because the chief ministers and leaders of Haryana and Rajasthan did not yield on the political issues raised by the Akalis. Despite this, the Prime Minister, Smt. Indira Gandhi, announced Government's acceptance of the religious demands of the Akalis. Most of the opposition and some Sikh leaders welcomed Government's decision. It is still hoped that the Akali leaders will resume negotiations and help in reaching a settlement on their political demands in the larger interests of the country.

¹'*Move to the Table*', Indian Express, editorial, 19 Oct. 1982.

III. Assam Agitation

It has its roots mainly in regionalism and partly in communalism. Politics of Assam agitation is likely to strengthen the forces of disintegration. The agitation is directed against foreigners (outsiders), who have infiltrated into the State without valid authorisation ; but the movement is not directed against all outsiders and it is anti-Bengali only in the sense that it is against such Bengalis who have infiltrated into the State from East Bengal, now Bangladesh. The leaders have categorised foreigners into three groups ; (1) Pakistanis or Bangladesh Muslims who came after partition ; (2) non-Muslim refugees who have not yet acquired Indian citizenship; and (3) Nepali migrants who have retained Nepali citizenship.

Regarding the first category they have agreed to detect them and after screening deport them in accordance with the law. If their names are found on the voters' lists they will be deleted. This category does not cover a large number of Indian Muslims of East Bengal origin who fled the state and went to East Pakistan after the communal riots in 1950 and returned to Assam under the Nehru-Liaquat pact. The people in the second category are victims of the partition of India. They have lost Pakitani (Bangladeshi) citizenship and all their property. Such persons, the Assamese believe should not be thrown out of India. At the same time, Assam should be asked to bear only its legitimate share of the national responsibility for accommodating and rehabilitating them. By and large, the Assamese people do not resent the presence of Nepalese settlers among them. But the Purban-chaliya Loka Parishad (P L P) leaders and others rightly feel that Nepali citizen should not be on the electoral rolls in Assam.

There is a growing fear among the Assamese that such people will swamp the state. They, therefore, contend that non-citizen refugees should enrol themselves on a register and that Government of India should take the responsibility of rehabilitating them in different states and grant them citizenship in due course. They maintain that deletion of the names of foreigners from the electoral rolls should in no case be linked with their deportation. While their names should be deleted under a summary procedure, their deportation should take place after due legal procedures. The presence of foreigners has become such an emotional issue in the valley that no political party can function there without first clarifying its stand on it.

The movement started by students is being carried on with the active support of teachers and other elements in the middle class. Two regional parties are also associated with it. One of them, the

Jatiyabodi Dal is confined to Gauhati ; and, there too, it is split into three groups. The other party—Purbanchaliya Lok Parishad (P L P) was set up in 1977, under the leadership of Niharan Bora, who is also the Chairman of the Assam Gantantra Parishad. The Jativabodi Dal and the P L P each have two representatives on the Jansangram Parishad.¹

It started under the Janata regime, but it assumed serious proportion only after the present government came into power. The movement is being carried on by the two powerful students' organisations—All Assam Students' Union (AASU) and All Assam Gana Sangram Parishad (AAGSP). The movement has enjoyed solid support of the State government's employees at all levels. The reason is not far to seek, as nine out of ten state government jobs are held by Kanauji Hindu communities. They require little persuasion to keep away from their offices whenever the two organisations call for a strike or "bandh" (stoppage of work). Most of them instinctively help the agitators in collecting funds from transport operators, permit seekers and the like; and quite a few actively participate in the movement.

The agitators have resorted to strikes, rallies, boycott of educational institutions and obstructing the transportation of goods from the State to other parts of the country. The agitation has not been wholly peaceful; there was eruption of widespread violence in Lower Assam in May 1980. The clashes on 26 May were the worst of the kind, when about 15 thousand "outsiders" had to flee their homes in North Kamrup and seek shelter in neighbouring areas of West Bengal, in the wake of large-scale arson and killings. Following the failure of the 14th round in negotiations the AASU and AAGSP leaders jointly gave a call for a 36-hour Assam 'bandh' on 19 November 1981, including block level rallies and a 'rasta-roko' action on the last two days of the month. The bandh brought normal life to a halt in the Brahmaputra valley.

There is no difference between the two sides on the future of the illegal entrants who came before 1961 or after 1971. The former are to be accepted as Indian citizens and allowed to live in Assam; the latter are to be deported to where they came from, as provided for in the 1974 agreement between Mrs. Gandhi and the late Sheikh Mujibur Rehman. Disagreement persists only over the fate of the nearly one and a half million people who migrated from the then East Pakistan to Assam during the sixties. 'Then there are the country's

¹K N. Malik, '*Regional Roots of Assam Agitation*', Times of India, 31 Dec., 1979.

constitutional and moral obligations from which there can be no escape. In the first place, all of these who came from the then East Pakistan to Assam during the sixties were not illegal immigrants. A large number of them were refugees who fled their homes in the wake of the 1965 war. To treat them as "foreigners" would be unfair. It will also arouse resentment among the people, especially in West Bengal, where complaints of different treatment to refugees from the two wings of Pakistan have been heard even earlier. The outrage among the indigenous Bengali-speaking population of Assam is bound to be even greater.¹

On 10 December 1981, the Prime Minister had a two-hour meeting with leaders of various opposition parliamentary groups. The Government agreed to hold a combined meeting of representatives of the Government, Opposition parties, and AASU and AAGSP. The decision to include the opposition parties for the first time in the negotiations was one of the best things; but the two rounds of talks after that did not yield a satisfactory result. However, it is hoped that the involvement of the opposition leaders is very likely to invest the negotiations with a sense of urgency and national concern. The bipartisan approach is necessary not only to find an agreed formula, but implementation of the terms will also require a national consensus.

'For many of us Assam is a far away "country" of which we know little and for which we care even less. We tend to forget that it is a very important and sensitive part of our country. It epitomises in a most acute form many of the conflicts that threaten to tear India apart from time to time. That should have been a reason for handling its problems with care and not for either trying to wish them away or for bull-doing them. This is precisely what New Delhi has done. For three decades, it refused to recognise the dangerous consequences of unrestricted immigration into the state from across the border and now it has sought to impose on the original inhabitants a government they cannot possibly regard as legitimate and their own. If those in charge of the country's affairs since independence have ever taken a long look at Assam, they have kept it a closely guarded secret. In the event, they have drifted, allowing problems to be aggravated to a point where any "solution" carries with it enormous risks. We appear to have reached the dead-end. We do not know where to turn. But, we cannot afford to sit back and despair. Assam is close to several mini civil wars—Hindu-Muslim, Assamese-Bengali, Hindu-tribal,

¹Inder Malhotra, *Running Sore in Assam : Distressing Intransigence*, Times of India, 19 Nov., 1981.

plainsmen-hillsmen. And Assam will not die alone. It will take the whole of the north-east with it. Indeed, that, too, will not be all, Assam is vital to the security of India.¹

'The nation will readily endorse the resolution unanimously adopted by both Houses of Parliament condemning the brutal killings in Assam and appealing to all sections of the people there to strengthen feelings of mutual co-operation and brotherhood and join in restoring peace and finding an amicable solution to the foreigners' issue. To attribute the violence entirely to the elections would be facile as violence was in the air, the violent anti-poll campaign being the proximate cause. Once peaceful protest was abandoned, mass hysteria followed, unleashing a variety of repressed passions and culminating in a gruesome tragedy. The elections could have been postponed, and the Opposition had agreed to go along with the necessary constitutional amendment with safeguards to which the Government was amenable. But once elections were announced a peaceful boycott would have proved a most telling argument whereas the negligible poll in several constituencies as it turned out was as much a product of intimidation and fear as of genuine resentment against the poll. It would be dangerous to plead or uphold the thesis that elections are expendable and a matter of expediency.

'What happens next? Having held the poll, even if it has only been "completed" in 108 out of 126 constituencies, it would be fatuous to dissolve the Assembly *ab initio*. At the same time, the Assembly cannot be regarded as reflecting the will of the people and must proceed on the clear recognition that it is unrepresentative and can at best function as a caretaker. No one has "won" the election. Any ministry formed should not see itself as a party government but as a trustee charged with the duty of restoring normalcy, rehabilitating the distressed, and resuming the threads of negotiation. This purpose would be served if representatives of other parties and interests are included in the ministry under an acceptable chief minister who would command respect and confidence outside the House, in the State at large, as much as within it. Such an administration should adopt a specific mandate and pledge to seek fresh elections as soon as a solution of the Assam question is in sight. The threads of negotiation for an Assam settlement should be picked up without delay.'²

¹Gautam Adhikari, 'Insanity in Assam', Times of India, 27 Feb. 1983.

²'Next Steps in Assam', editorial, Indian Express, 24 Feb. 1983.

IV. Problem of the North-East

North-Eastern India comprises that part of India which is situated east of Bangladesh. It is 98,000 sq. miles in area and has a population of 19 million, which is substantially less than the country's average. There are many problems and disadvantages which the North-Eastern States have in common. One is the geographical remoteness of this area from the main centres of Indian political, social, economic and cultural life. Tucked away as it is in one corner of the country, it has never been in the mainstream of Indian life, its problems have therefore always tended to be somewhat neglected, not because of lack of sympathy, but largely because of lack of knowledge. The second common problem of this area is that of defence. It is situated between China, Burma and Bangladesh. Its lines of communication with the rest of India can be easily cut off by a combined movement from the North and South to squeeze the Siliguri neck which is no broader than 20 miles at the narrowest, China still lays at least theoretical claim to the entire area of Arunachal Pradesh; it was in this region that it invaded India in 1962.¹

Again, there is immense diversity so far as the indigenous political institutions are concerned. There is also immense religious diversity in this area. There are Hindus, Muslims, Christians, Sikhs, Buddhists, Jains and others; and each group is concentrated in a particular area. Apart from religious diversity, there is also linguistic diversity. The number of languages and dialects used is more than four hundred, and they are both Aryan and non-Aryan. Moreover, people in these units are ethnologically, culturally and linguistically not very different from the Mongoloids. For instance, the Mizos have their kinsmen on the other side of our frontier in the Chin Hills of Burma.

There is, therefore, need for the establishment of a number of economic, social and political institutions for the development of this region. First, there should be a separate Planning Commission, consisting of economists, sociologists, technocrats and administrators. The second institution is the department of communications for the development of communications of all kinds. The third institution that may be brought into existence is a common electricity board, which should make a long hyphen-range plan after making a thorough survey of the hydel and thermal power potentialities in this region. The fourth institution for the integration of this region is the establishment of a research station for the development of agricul-

¹B.K. Nehru, *'North Eastern India'*, Illustrated Weekly, 22 Nov. 1976.

ture, horticulture and animal husbandry. Another means by which integration may be brought about is by introducing a common language, and a common script for all the languages of the region. Finally, a new set-up is necessary for the coordination of the activities of the several political units in this region.¹

Malhotra wrote : 'The tribal people's anxiety about the preservation of their identity would have been divisive enough. Anyhow, its impact is heightened because the issue has got mixed up with two extremely explosive elements—religion and language'. For historical reasons, most of the tribals in the north-east, except in Arunachal Pradesh, are Christians, who continue to use christianity as a base of separate identity. The official language of Meghalaya, Nagaland and Mizoram is English, a subject on which the tribals are very sensitive. Greater disquiet has been caused by the enactment of a law on religious conversion in Arunachal Pradesh, where the practitioners of the indigenous faiths outnumber the Christians.²

But resentment is not a one-way street. If the tribals of the north-east have legitimate grievances, so have the non-tribal people, whether native to the soil or settler of relatively long standing. The people from the plains, called Meiteis, form two-thirds of the population of Manipur, but live only in one third of its area ; the two-thirds of the area, largely hilly, is inhabited by the tribals who are akin to the Nagas in the north and Mizos in the south. While all tribals, including those who hold high posts in the administration or get lucrative contracts from the government, are exempt from all taxes, all non-tribals posted to the region in any capacity, have to hand over a chunk of their income to the tax-collector. Again, while a large number of Manipur tribals, on account of the policy of reservation of jobs for the scheduled tribes, have got into prestigious all-India services, as far as is known, only a solitary Meitei has been able to compete successfully for a place in the I A S.

'The rise of secessionist movements in the north-east and the continuing hold of their parochially conceived ideologies on their not insubstantial followers is similarly explicable. For the Naga, Mizo or Meitei hostiles seem to believe that the tribes to which they belong can become nations without abandoning any of the parochialism that

¹V. Venkata Rao 'North East India : Problems and Prospects', I.J.P.S., Jan.-March, 1975, pp. 1-11. Special provisions for Tribals and State in this region have been discussed in Chap. 16.

²Inder Malhotra, 'The Sensitive North-East : Strains on a Delicate Mosaic' Times of India, 13 Dec. 1978.

attaches to and even defines tribal groups. Yet, the nation-state is a modern concept and, as it evolved in Europe and is evolving in so many third-world countries today, one of its preconditions is the dissolution of parochial identities into a larger, more catholic unit of affiliation.

'What the north-east needs is full-blooded development that has real punch, not the sort that merely benefits a small group and its human barnacles, but the kind that presents a cultural challenge, upsets the existing order and the values underpinning it, precipitates cultural conflict, and even as it breaks down physical and geographical barriers, renders parochial loyalties obsolescent and compels a search for wider ones.¹ After the forgoing general discussion about the North East, we would very briefly refer to the problems being faced in each part of the region as follows :

Meghalaya. In this State the rise of infra-nationalism is a stumbling block in the smooth operation of a co-operative system. While the Nagas aspired for independence, the tribals of the hill districts of Assam desired autonomy by means of their separation from the bigger State of Assam. Even after the creation of the Meghalaya State, there has always been an undercurrent of tension between the indigenous tribal population and outsiders in Meghalaya as in other parts of the North East. Tribal extremists are posing an increasing threat to law and order in the State. Their attacks on armed police and armoury in 1980 provided evidence of thorough planning.

Nagaland. The following conclusions, emerging from a study of the political scene in Nagaland should be noted : (1) The destiny of the Naga political parties depends on the support they secure from the undergrounds. (2) Naga political elite are competing for political gains which is fast destroying the corporate character of their society. Factional interest in Naga politics is on increase and ambitious men are looking beyond the confines of their villages and tribes for their political advancement. (3) In the State of Nagaland sufficient ground has been prepared for the constitutional functioning of political parties. (4) Political awareness among the Naga people is fast increasing and it is having a sobering effect on all the political forces working in the State. (5) Modernisation and westernised way of living of educated Naga elites are fast alienating them from the common

¹A.S. Abraham, 'North East in Crises : Tribal Ambivalence About Change', Times of India, 16 Nov., 1979.

²Brajraj Singh, 'Violence in Meghalaya : An Outsider's View'. Times of India, 3 Feb. 1980.

man. (6) Industries based on modern technology are attracting the attention of all the political parties and the pace of development and industrialisation is increasingly emphasized by the political decision-makers to improve the lot of the people. 'Finally the future of Nagaland is interlinked with the satisfactory political solution of the problem together with the will and determination of the political rulers of the State to translate into practice their electoral promises made to the simple, honest, loyal and proud Nagas.'¹

Mizoram. In an indirect way, their conversion has in some measure contributed to the secessionist sentiment. The Mizos fear that their religion, culture and way of life is threatened by assimilation. Greater exchanges between the Mizos and the people in other parts of the country could help dispel some of these unjustified fears and promote integration. But this is easier said than done. To protect the Mizos from exploitation by outsiders, non-tribals are allowed to visit the territory only with a special permit and they cannot trade or engage in business or commercial activity. This inhibits contacts. Besides, Mizoram being remote and communications and transportation being difficult such exchanges present numerous difficulties. Yet no one will deny that a sense of separateness combined with a feeling of gross neglect has contributed to the rise of insurgency.

Manipur. In Manipur, the president of the local student coordinating committee conceded that out of a total population in the state of some 12 lakhs, the Mayangs comprised a mere two lakhs. Moreover, the Mayangs include large numbers of Nepalis who have settled in Manipur for long periods going back up to about a century. The most recent large-scale migration of Nepalis was in the early fifties when they moved to Manipur from Assam after the 1950 earthquake there. That settlement was legalised by the Manipur government of the day under the 1950 Indo-Nepal treaty. The harsh truth is that the anti-Mayang agitation in the State, spearheaded by the students, is being exploited by extremist groups to mobilise wider support for their cause. Only recently the All-Manipur Students Union and the All-Manipur Students Coordination Committee demanded, in effect, the disenfranchisement of thousands of Indian nationals who have been living in Manipur for decades together with severe restrictions on the movement of "outsiders". These demands were pressed in June 1980 before the Prime Minister by a nine-party delegation from

¹B.N. Agrawal, *The Political Scene of Nagaland*, I.C.P.S. July-Sep. 1978, pp. 340-41.

Manipur which included representatives of all the three parties in the ruling coalition. Predictably, the talks proved infructuous but that was not the end of the matter. Soon after 11 MLAs withdrew their support from Dorendra Singh's ministry and asked for the immediate repeal of the Armed Forces Special Powers Act.¹

Tripura. It was clear from the fresh outbreak of violence in July 1980 between tribals and Bengalis in Tripura that the horrible massacres early in June were not a temporary aberration, a momentary interruption of otherwise normal communal harmony. In a number of villages in west Tripura the focus of tension this time, rioting and arson had taken at least four lives and possibly more, and Bengali refugees were streaming out of their villages in search of safety. Having vented their long-pent-up frustrations and resentments in the terrible programme against Bengalis early in June, it was expected that the tribals would return to the sullen quiescence that had by and large characterised them until then and which had misled others into believing that they had come to accept being "swamped", by Bengali settlers. But the latest incidents showed that their fury was a continuing thing and that not the least worrisome aspect of it was that it invited retaliation from the Bengali majority. Anyhow the root causes of tribal alienation must be addressed. They must be given a stake in the system, the injustices which they have suffered must be undone, their future as a minority must be secured. The State Government is trying to meet them part of the way through various measures designed for their benefit, but these are nowhere near enough and even they are provoking a dangerous backlash of Bengali parochialism, which the Amra Bengali symbolises.²

"The Army of Tripura Peoples' Liberation Organisation" (ATPLO)—the militant and clandestine unit of Tripura tribal extremists—has expressed its firmness to "carry out armed struggle" with a view to forming what it called a "sovereign state". Such an expression was contained in a recent letter addressed to the Tripura chief minister, according to a press statement issued from underground by four ATPLO leaders.³

V. Some Other Notable Movements

Demand for Jharkhand State (Bihar). Geographically and demographically, the plateau region is different from the rest of the

¹'Troubled Manipur', *Times of India*, editorial, 26 June 1980.

²'Tripura Violence', *Times of India*, editorial, 2 July, 1980.

³*Times of India*, 28 May 1982.

State. Before independence the region was given scant attention, so the region, inhabited by adivasis, remained a placid one where, on the one hand, operated quietly but skilfully and with a shame, the various Christian missionaries, and on the other, the money-lenders and the landgrabbers, mostly from the plains, for whom self-aggrandizement was the sole motto of life. The Adivasi Mahasabha, the precursor of the Jharkhand Party, was established in the late thirties with a view to focussing attention of the government and enlighten people towards social, economic and other grievances of the aborigines. The Party gave first jolt to the Congress during the elections of 1946 when it captured all the five seats from Ranchi. From that time onwards, the Party grew by leaps and bounds; and, in the fifties, became the main opposition inside the Bihar legislature. Its main demands were the creation of a separate Jharkhand State consisting of Santhal Parganas, Chota Nagpur and the aboriginal tracts in the neighbouring States of Bengal, Orissa and Madhya Pradesh.

The States Reorganisation Report, 1956 gave a jolt to the Party by rejecting its demand for a separate Jharkhand State. Though occasionally indulging in demonstrations and agitations, yet the Party had been a parliamentary party, believing in constitutional method for ventilation and redress of its demands. Having been frustrated by the Report, the Party decided upon a merger with the Congress, but this was not liked by some elements in the Party, so they later revived the Jharkhand Party. It later split to give birth to the Hul Jharkhand Party and the Jharkhand Party (Horo) but these fragmented elements could not make much headway, understandably giving rise to agitational policies by some elements.

A section of the tribals is opposed to the idea of a separate state of Chotanagpur and Santhal Parganas. Rapid industrialization in the region has led to the influx of "outsiders" and tribals are in fact outnumbered two-to-one in this region. The dissidents point out that under such conditions the exploitation of tribals would only be speeded up if Chotanagpur and Santhal Parganas becomes a separate state. Therefore, they are in favour of a "Jharkhand State" which would include tribal areas of neighbouring Madhya Pradesh, Orissa and West Bengal, and in which the tribals would be in the driver's seat. But the Jharkhand Mukti Morcha offers one hope, though its first task is to organise Adivasis to assert their rights and only then press for statehood. The Morcha's seventh anniversary was celebrated in Dhanbad on 4 February, 1979 with an impressive turn-out of

several hundred Adivasis and workers. But the matters connected with the issue are very complicated.

The whole debate had been momentarily revived, late in 1977, with Jayaprakash Narayan's call for smaller states (he doubtless had U. P., Bihar and Madhya Pradesh in mind). It had been readily endorsed at the time by Charan Singh, but nothing has happened since. The issue is very clear ; while it is true that these three large states in the Union are the worst run in the country, it is for reasons other than their size. Thus if Maharashtra, Tamil Nadu and West Bengal are efficiently administered states despite their size, so also are Kerala and Punjab, which are small.¹ The demand for creation of a separate Jharkhand State comprising 16 contiguous districts of Madhya Pradesh, Bihar, Orissa and West Bengal was voiced loud and clear at a Jharkhand party rally held at Calcutta on 31 October 1980. The Jharkhand party president, N.E. Horo, M.P. declared that the new state was necessary to establish the identity of 30 million Jharkhands. "It is our political right to shape our destiny according to our genius," he said. He made a scathing attack on the Congress (I) CMP, CPI and Left Front constituents, accusing them of an exploitative attitude towards the depressed sections of the people. What Horo said at the rally was the crux of a memorandum the leaders later presented to the governor, for forwarding to the Prime Minister, Mrs. Gandhi. The document was on the same lines as the one the party had presented to Mrs. Gandhi in 1973. "But nothing has been done so far on it," Horo added.

The leaders of the movement for a separate Jharkhand state are very active in Bihar and West Bengal areas adjoining Mayurbhanj district of Orissa. Apparently, the movement on the borders of the two adjoining states is spreading to the tribal pockets of Mayurbhanj district. The militant attitude of the Jharkhand Mukti Morcha spearheading the movement is clearly evident from the style of the demonstration, slogans and speeches of its leaders at a recent rally held at Baripade, the district headquarters of Mayurbhanj in Orissa. Tribals armed with bows and arrows, axes and "tangias" marched in procession shouting slogans like "ladke lenge Jharkhand," just before a public meeting at the Madhuban ground. The meeting was addressed by, among others, Sibn Soran, MP, Laxman Marandi, president of the Mayurbhanj unit of JMM, Krishna Marandi, president of the Singhbhum

¹Darnyl D. Monte, 'The Jharkhand Movement : Utter Confusion,' Times of India, 14 March, 1979.

district unit of JMM and Chitta ranjan Marandi, organiser of JMM in West Bengal.¹

Uttarakhand Demand (West Bengal). The moves for a separate "homeland" for the Gorkhas and an Uttarakhand State for the Rajbanshis in 1979-80 created tension in three of the five north districts of West Bengal. The slogans for "homelands" by both the Gorkhas and the Rajbanshis are related to the developments in Assam and Tripura. The Uttarakhand movement took an anti-Bengali direction through the Rajbanshis who, unlike the Gorkhas, are Bengalis. The movement leaders campaigned mainly through night group meetings in Rajbanshi villages. Communist leaders spoke of Congress (I) encouragement or active participation at some levels in both movements. Tribal ferment in the north-east spread like a forest fire. Its flames began in West Bengal where the demand for a separate "Uttarakhand" State, comprising north Bengal, had been raised. Perhaps the tribals including Santhals, Mundas, Oraons and Nepalis wanted to break away only from West Bengal and not from the country itself. But whatever the objectives of the "Uttarakhand" movement, its appearance gravely worried not only the West Bengal administration but also the Union Government. According to a Forward Bloc MP from Cooch Behar, the affected region, the agitation was sponsored by jotedars and other plutocrats. Another Forward Bloc leader, Ashok Ghosh, said that it was a conspiracy hatched by the Congress (I).²

Reorganisation of U. P. The demand for the division of U.P. is as old as the States Reorganisation Commission. K. M. Panikkar, a member of the Commission had appended a note of dissent against the non-division of U. P., but that was over-ruled by G. B. Pant and J. L. Nehru for political reasons. The creation of a separate State for Western U. P. had been the pet demand of Charan Singh in the 1950s. The Jana Sangh at its all-India session held at Kanpur in 1974, became the first political party to put forth the criteria of "administrative facility and economic viability" for reorganization. The divisionists say that there is a clear case for the splitting up of U. P. for administrative reasons.

Government committees studying the administrative aspects favour the breaking up of the state educational board into four units. A proposal is afoot for establishing a Bench of the Allahabad High Court in the west (Agra or Meerut) besides the one in Lucknow and a similar demand has been voiced for the eastern districts. It is also

¹ *Times of India*, 10 May, 1982.

² 'Uttarkhand Demand', *Times of India*, editorial, 18 June 1980.

said that the bureaucracy has been proliferating to the point where central control from Lucknow is becoming lax. The number of divisional commissioners, deputy inspectors-general of police and additional district magistrates is increasing. This kind of division of administrative units and expansion of personnel cannot go on simply on ad hoc basis. Charan Singh again indicated his preference for a division of the State, which he described as "very big and very unwieldy". The Congress (I) and the CPI do not like it for fear that it will spawn new regional parties, which will weaken their position. For some years, the Uttarakhand Kranti Dal (representing the hill districts of the State) has been raising its demand for a separate hill State.

Conclusion. A brief mention may also be made of the large number of disputes between the States over the distribution of rivers, canal waters, for example, between Punjab and Haryana and the concerned States over the sharing of waters of the Cauvery. Similarly, there are boundary dispute between Maharashtra and Karnataka and the dispute between Punjab and Haryana over Chandigarh. In the end, we would briefly give the reasons for the growth of regionalism. First, economic and industrial growth in the country led to regional disparities and the clamour for the location of big projects and industries in various areas. Second, formation of linguistic States led to demands for the reorganisation/division of big States and granting of state-hood to some Union Territories. Third, expansion of education, adoption of regional language and demand for increasing number of jobs for sons of the soil. Fourth, encouragement given by politicians and regional parties.

CHAPTER 23

Religion and Politics

I. Factors Responsible for the Growth of Communalism

'The Aligarh movement had a political orientation from the beginning, which expressed itself in two ways. First, its leaders favoured working with the British authorities in India to win government patronage and concessions for the university and for Muslims rather than joining forces with the Indian National Congress in loyal opposition to the government. Second, it favoured separate Muslim organisations to work for Muslim causes and political rights. In 1886, Syed Ahmad founded the Muhammadan Educational Conference in order to promote more broadly the educational objectives of the Aligarh movement.'¹ This influenced the British Government. Moreover, the change in the attitude of the British Government towards Hindus and Muslims was the natural consequence of the growing demands of the Congress for political reforms.

Lord Curzon expressed his dislike for the Congress when he wrote to the Secretary of State in 1900 : 'My own belief is that the Congress is tottering to its fall, and one of my great ambitions while in India is to assist it to a peaceful demise.' In order to counteract the influence of the Congress he suggested that a Council of Princes should be set up. He was also responsible for the division of Bengal in 1905, which was carried into effect despite the over-whelming opposition by the people, including Muslims, with a view to placating the Muslims. In 1906 a deputation of Muslims led by Sir Agha Khan presented an address to Lord Minto. The address embodied two important demands on behalf of the Muslim community : First, in any kind of representation due regard should be had for the historical importance of the Muslim community; and second, in any kind of representative system to be introduced, Muslim community should have its own representatives. The Morley-Minto Reforms of 1909

¹Paul R. Brass, *Language, Religion and Politics in India*, p. 167.

introduced the system of separate (communal) electorates. This ultimately led to the partition of the country in 1947.

Another factor in the growth of communalism was the demand for loaves and fishes i.e. for a larger number of government jobs and seats in legislatures than the prevailing system. Careerism expressed itself in the form of communalism. The communal issue has been in general a question of the struggle belonging to different faiths. Communal questions referred to spoils, percentages of seats and favours. Thus the communal question was confined only to the classes and it had no specific reference to the masses. In the spread of communalism communal leaders and parties, for example, Syed Ahmad Khan, M.A. Jinnah, Muslim League, Hindu Mahasabha, Akali Dal, Scheduled Castes Federation, etc. played a prominent part. As champions of the rights and interests of their communities many arm-chair politicians got positions of leadership without any suffering and sacrifice on their part.

J.L. Nehru was very much right in holding the view, that the fundamental problem of India had not been political, but of poverty and unemployment, low productivity, vested interests, both foreign and Indian. K.B. Krishna, in his work *Minority Problem in India* summed up the struggle between the classes of different faiths and communities in these terms : (i) There is the struggle between the professional classes of different faiths and communities. The reforms and political ambitions increased this rivalry between these classes. (ii) This struggle has spread to the commercial, industrial, shopkeeping and trading classes of different faiths and communities. Nowadays the historians are more inclined to focus on the social, economic and political developments and the processes whereby the members of the two principal communities increasingly became organised along communal lines despite the fundamental nationalist objective of creating an undivided free India. The emphasis in this new kind of historical writing is not so much on the autonomous role of religion as a separatist force or the supposedly long-standing distinctiveness of the conflicting communities. It is rather on the socio-economic forces which shaped the perceptions of the leaders of the two communities and eventually drove them to rely upon communal mobilisation as a means of safeguarding their distinctive interests.¹

The communal riots increased communal tension and hatred between the various communities. Incitement and instigation for

¹Imtiaz Ahmad, '*Roots of Communalism : An unprejudiced Study*', Sunday Standard, 17 June 1979.

such riots sometimes came from the officials of the government. When riots actually broke out, the police and government officials did not do their best to quell them. The Report of the Inquiry Commission of Kanpur riots of 1931 said : 'There is a feeling', said a witness before us, 'that the local authorities did not choose to take stringent measures because they were displeased with the businessmen for helping the Congress activities, and they wanted to show that without the help of the authorities they cannot protect their lives and properties.'

V.D. Savarkar, President of the Hindu Mahasabha propounded the theory of a separate Hindu nation and M.A. Jinnah, as undisputed leader of the Muslim League, also propounded the theory of a separate Muslim nation. Thus the two-nation theory, which led to the partition of the country, was held by leaders of both the major communities. The leaders of the Sikh community also followed suit; even now they have raised the demand for a separate homeland—Khalistan. B.R. Ambedkar had rightly criticised Savarkar's attitude to Muslim demand for Pakistan when he said : "Mr. Savarkar admits that Muslims are a separate nation. He concedes that they have a right to cultural autonomy. He allows them to have a national flag. Yet he opposes the demand of the Muslim nation for a separate national home. If he claims a national home for the Hindu nation, how can he refuse the claim of the Muslim nation for a national home."¹

'Communalism grew in India because the revival of Hinduism was followed by the revival of Islam, and a political movement among Hindus inspired by religion was confronted by a similar but antagonistic movement among Muslim. The Indian National Congress was dominated by Hindus, and the Muslims who had lost their dominant position in India with the rise of British power, responded in 1906 by founding the Muslim League. Lately economic conflict has become the more important cause. It is important to bear in mind that latent hostility which is liable to burst out into the open at any provocation is not confined to Hindus and Muslims alone, for the whole of Indian society is suffused by it. But it is in the relations between the two major communities of India that the tension finds its most tragic expression. The creation of a separate Muslim state could not end communal conflict, because it continues to lurk everywhere—in cities, towns and villages—for not all Muslims have left India and many Hindus still live in the former East Paki-

¹Home Study Circle, *Nationalism in Conflict in India*, p. 8.

stan now Bangla Desh.’¹

Religious/Communal organisations, leaders and political parties of various communities—the RSS, the Jamiat-i-Islami, the Akali Dal, Republican Party of India etc.—have been largely responsible for communal riots/disturbances and communal tension even after the partition of the country. The demand of the Muslim League for Pakistan made one notable contribution to Indian political life. It compelled the Congress and other organisations to think afresh on the problem of minorities and the extent and degree of self-determination for different territorial units.² Another consequence of partition, which deserves to be noted was : ‘For a century and a half, the Indian Muslim politics had been carried on without the least consideration of what its reactions would be on the non-Muslims. While every irresponsible statement of any non-Muslim leader was exploited for hate-propagands no one thought it wise to pause and think as to what would be the likely repercussion on the mind of the non-Muslims of the far more irresponsible and malicious statements and writings which many Muslim leaders were indulging in a realization about the realities, perhaps for the first time, dawned soon after partition.’

II. Position of (Religious) Minorities

The Problem of Identity. The contemporary Muslim society of India is essentially a legacy of the pre-independence Muslim community, and as such has inherited most of its problems from its earlier existence. ‘The contemporary Muslim society of India suffers from a sense of defeat and humiliations incurred during the partition and the ultimate transfer of power. In the context of a new secular constitution, the Muslim society needed a totally new orientation, both on the political and social levels. But this change has not been forthcoming in the post-independence Muslim society. Through secular legislation and through a process of social change, the rest of the Indian communities have been experiencing a process of structural differentiation. . . .’

The Muslim masses still continue to be guided by the orthodox Ulema, who have always been distrustful of the secular politics and politicians. This class bias of the Muslim leadership has some deep implication for the process of political socialization of the Indian

¹Surinder Suri, *Politics and Society in India*, p. 127.

²Humayun Kabir, *Muslim Politics 1906-47 and Other Essays* p. 49.

Muslims : (i) Progressive Muslim leaders have always failed to get a mass-base, because due to orthodoxy and communalism, they have been forced either to withdraw their progressive programmes or to compromise with the traditional element. (ii) Due to its urban base, the efforts of the Muslim leadership have remained confined to the articulation and organization of the Muslim urban middle class interests, through lobbying and pressure tactics. 'Reform, if it has to be effective, has to come from within, and unless this takes place in the Muslim society, the Muslims will continue to remain consequential, without being progressive in the democratic politics of India. An encouraging development, however, has been the emergence of a young leadership, which seeks reforms from within, like that of Hamid Dalwai, but one wonders whether it has the doctrinaire competence or organizational efficacy to make its programme a success.

'A more positive approach towards resolving the identity crisis could be the development of an abiding sense of nationalism not defined in terms of race, religion or language—but in terms of national interest as outlined by Prof. Rasheeduddin Khan in his essay *The Crisis of National Interest in India*. He maintains : "Nationalism has clearly been the single biggest cohesive force for internal legitimisation of political systems and for the stabilisation of viable communication patterns; and the most significant component in the competitive international polity of modern times." If a new concept of nationalism, based on national interests could be inculcated among all the citizens of India, the conflict of identities based on indigenous traditions or on external legacies, could be avoided. This would pave the way for the emergence of a single identity for all the components of the nation, uniting them on a common acceptable and a viable ground.'¹

Gopal Krishna rightly observes : 'Though secular nationalism was the dominant force among the Hindus, communal elements were not absent among them. Claiming to be militant nationalists, the Hindu communalists, represented mainly in the Jana Sangh, made Muslims and Muslim culture targets of their attack and demanded their 'Indianization'. In this they showed a failure of understanding of the type of nationalism appropriate for a plural society where minorities are unwilling to compromise their distinct cultural identities. Even after partition Muslims constituted the most important

¹Kausar J. Azam, 'The Indian Muslims : The Quest for Identity', I J.P.S. July-Sep. 1976, pp. 37-42.

minority in the country. 'Though they were far from socially homogeneous, twentieth century politics had created among them a sense of common political destiny, and the communally-oriented elements among the Muslims have sought to keep this sentiment alive in the belief that communal solidarity alone will assure the survival of the distinct Islamic identity of the Indian Muslims. Muslim communalism has resisted the process of secularization, and though it is on the defensive now it yet remains a strong force hindering the process of nation-building.'¹

'The Muslims are afraid that the superiority of the Hindus in numbers, education, industry and political or money power might one day lead to their almost complete domination. They are also afraid of being culturally assimilated by the majority and even of losing their religious identity as a group. This fear is very disturbing since the Muslim is deeply proud of his Islamic identity as a member of the chosen community. Every communal riot revives his apprehensions. When the educated Hindu impatiently complains about the resistance of the Muslims to enter the national mainstream (including his acceptance of a common personal law) he has no insight into the inner fears of the Muslim mind.'²

Population of major religious minorities, according to 1971 census is as follows : Muslims 11.21, Christians 2.6, and Sikhs 1.89 per cent of the total population. Other minority groups such as the Jains, the Buddhists, the Parsis and the Jews are much smaller and do not present nearly as broad a range of problems as the large groups. The position of major communities as described by Wadhwa may briefly be stated here :

Since 1950, the highest office in India—that of the President—has been held by seven different persons and two of them have been Dr. Zakir Hussain and Fakhruddin Ali Ahmed, both Muslims. A substantial number of Muslims has been appointed Cabinet Ministers in the Union. Similarly, there has always been at least one Christian and one Sikh member in the Union Cabinet. In such organs of the Government as the Judiciary and Public Service Commissions, the members of the minority communities have held important positions. Hidayatullah and Beg have held the office of the Chief Justice of the Supreme Court in recent past and Dr. A.R. Kidwai was Chairman of the Union Public Service Commission. Similarly, a casual glance

¹Gopal Krishna, 'Main Obstacles to Unity', Times of India, 15 Aug. 1972.

²Jamal Khwaja, 'Communal Tensions-I : Need for Functional Approach', Times of India, 8 Dec. 1980.

through the pages of *India : A Reference Annual*, published by the Government of India, will reveal a substantial number of Muslim, Christian and Sikh names in the list of Governors, Ambassadors, Vice-Chancellors, and personnel of State Public Service Commissions. All minorities can avail themselves of the educational facilities available equally to all citizens in the publicly financed non-denominational institutions all over the country, and at the same time handsome grants-in-aid are also given to educational institutions run by different minorities. The Central and State Governments have allowed minorities to run their own institutions without any let or hindrance. A number of Maktabas, Madrasas, Jamias, Schools and Colleges, Universities and other educational centres are run by Muslims, Christians, and Sikhs throughout the country. According to the list of the colleges recognised for the purposes of grants by the University Grants Commission and the approximate number of denominational institutions run by these three communities is as follows : Muslim 27, Christian 146 and Sikh 42.

Specific Problems of Minorities. The Muslim community has a number of problems and grievances, delicate and complex, real and imaginary. The most serious grievance of the community is its inadequate representation in various services under the control of the Government of India. In spite of the fact that the Constitution of India provides equal opportunity to all irrespective of any discrimination on the basis of religion, etc. in the matter of government services, the number of Muslims being recruited to the various services has been dwindling. In reply to a question about the total number of officials working in the Central Secretariat and number of Muslims thereof the Minister of State for Home Affairs, Ram Niwas Mirdha made a statement in Parliament, the gist of which is shown in the following table.¹

	<i>Central Secretariat Service</i>	<i>Total No. of persons in position</i>	<i>Number of Muslims among them</i>
(i)	Selection Grade I	140	2
(ii)	Grade I	395	5
(iii)	Section Officers	1666	12
(iv)	Assistants	4507	19

¹K.K. Wadhwa, *Minority Safeguards India*, pp. 153-54.

Central Secretariat		
Stenographers Service		
(i) Seletion Grade	130	—
(ii) Grade I	195	—
(iii) Grade II	1954	7
(iv) Grade III	1326	1
Central Secretariat		
Clerical Service		
(i) Upper Division Clerks	2511	9
(ii) Lower Division Clerks	6585	30

Class IV employees do not belong to any of the Central Secretariat Services. The requisite information in respect of this category of employees in Ministries/Departments participating in Central Secretariat Service is, however, as under :

Class IV - Total No. 5381, Muslims 39

More so, the results of the all-India competitive examination conducted by the Union Public Service Commission for the Indian Administrative and Foreign Service show that in the year 1971, of the 100 candidates selected for the services, only 1 Muslim was able to secure a place. The proportion of the number of posts occupied by the Muslim community is decidedly far less and insignificant as compared to the census position of the community. A number of times various bodies and individuals representing the Muslim community have voiced their grievances about this dismal state of affairs. Dr. Rasheeduddin Khan, M. P. and a well-known author, says : "The inadequate intake of the Muslims in all-India government services and less than proportionate share in terms of population in their representation in the State Legislature and Parliament is exploited by the 'exclusivist' parties, playing what may be called 'passion-politics'. With a population of 10 to 12% a quota of 3.6 to 5.3% in the all-India services and 0.2 to 0.9% in other Central Services, and around five per cent representation in the country's highest legislature, the ideal of 'equality of status and opportunity' is not fulfilled.¹

Another major problem facing the community is the continued eruption of large-scale communal riots from time to time. Regardless of which side starts the riot (this is often impossible to determine objectively), the Muslims are generally the relative losers in terms of lives lost and property destroyed. Still another major problem confronting the Muslims of India is that of their Personal Laws. Since

¹*The Times of India*, New Delhi, 3 Dec. 1970.

the adoption of the Constitution, which provides under article 44 : 'The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India', the question of Personal Laws of different religious communities and of particularly the Muslims has been dragged into communal politics of India.

In season and out of season majority of Muslims in India have been raising a lot of heat and dust in the Indian political circles to oppose the idea of having a uniform civil code. Representatives of Muslim organisations in the country passed a resolution in a convention held in December 1970 : 'Parliament has no right to interfere in the personal laws of their community as they are part of their religion, so taking of any step in the direction of effecting changes in the personal law will be an infringement of the fundamental rights they enjoy'. A number of the political parties and organisations of the community like the Muslim League, the Jamiat-ul-Ulema-i-Hind, the Jamaat Islami, etc., have, time and again, publicly opposed the suggestion to enact a common civil code.

'When I approached a cross-section of educated, enlightened and "staunch" Muslims for their reaction to the statement made by Mrs. Noorjehan Razack, MP, calling for reform in the Muslim Personal Law, the response was varied and yet uniform in a way. Most of them looked at the Shariat and the Personal Law as something very, very sacred...that which had come from God through the Koran. They would not tolerate any "tampering by man of laws made by God."¹

But on the other hand, a number of scholars and intellectuals among the Muslim community itself have time and again pleaded for the reform of their personal laws. A.G. Noorani, a reputed journalist, remarks : 'The Muslim Law, as in force in India, cries for reform'. In this reference the views of Prof. Tahir Mahmood deserve to be noted : 'Existing personal laws of the various religious communities may not be altogether scrapped ; though each of them, and more particularly the Muslim personal law, must be purged of all unsatisfactory elements, in a way ensuring the maximum possible social equality'. M. C. Chagla expressed the view that 'in a secular State like India, which permitted every citizen to profess his faith, social reform legislation such as a ban on polygamy—should apply to all citizens, regardless of creed or community....Indian Muslims (should) adapt

¹Rasheeda Bhagat, 'Consensus to Retain Muslim Personal Law', Indian Express, 23 Sep. 1982.

themselves to the conditions of secular India where they enjoy the same rights as their Hindu fellow citizens.¹

The treatment meted out to Urdu is another source of Muslim grievances. Although Urdu is not the language of only the Muslims the general feeling of the community is that to deprive it of the Urdu language is tantamount to depriving it of its social and cultural identity and the spiritual inheritance. Muslim grievances in this field have been discussed in Chapter 21.

Muslim MPs Memorandum. The memorandum submitted by 45 Muslim MPs to the Prime Minister, Mrs Indira Gandhi, in November 1982 on the question of communal riots attracted considerable criticism. The question has been raised whether Muslim M.P.s represent only their co-religionists, whether they should be concerned exclusively with the plight of Muslims and whether they should not have associated with the memorandum of non-Muslim M.P.s who were equally perturbed over the recurrence of communal violence. 'In strict constitutional terms, a Muslim M.P. cannot represent only his co-religionists. He represents all his constituents. But it is also a fact that political parties choose Muslims as their candidates to give a feeling of satisfaction and belonging to the Muslim community. This is equally true in respect of the selection of ministers, ambassadors, governors, or even the Vice-President and the President. If a Muslim leader ceases to have hold on, or influence with, his community, he is treated as a political liability. Many Muslim leaders have successfully fulfilled this dual role.'

As for the memorandum, much misunderstanding arose because, of the 45 Muslim MPs who signed it, only one, Syed Shahabuddin, of the Janata Party, chose to speak in public, thus arrogating to himself the role of their spokesman. Most of them, however, do not agree with his approach. It is not true that the Prime Minister did not receive us or disapproved of the memorandum. As I was chosen by my fellow Muslim M.P.s to present it to her when we met her, I asked her whether I could read it para by para. She readily agreed and discussed with us, for almost an hour, the various points made by us.

These may briefly be stated as follows : (1) The defence and protection of the minorities against violence should become the responsibility of the Central Government and be treated as a national issue, and not simply as a law and order problem in the same manner as atrocities against Harijans are, through a constitutional amendment

¹K.K. Wadhwa, *op. cit.*, p. 158.

if necessary.

(2) The police force and the intelligence machinery must be purged of communal elements and restructured to provide due and effective representation to all sections of our people. The record of senior police and executive officers should be screened for communal bias and for performance during communal disturbances and anyone suspected of communal bias or found wanting should not be posted to sensitive districts.

(3) If communal disturbances do not stop within 24 hours of the first loss of life, the chief minister must personally rush to, and camp in, the area till normalcy is restored. The D.M. and the S.S.P. should be held responsible and immediately suspended and replaced by a pre-selected team of officers, known and tested for their efficiency, integrity and secularism and for commanding the confidence of the weaker sections. The victims of violence should be appropriately compensated for loss of life and limb in accordance with a uniform type-prescribed scale. All property, movable or immovable lost or damaged, should be replaced or reconstructed at state expense. The criminal cases arising out of communal disturbances should be expeditiously investigated by Central intelligence agencies and tried by special courts to restore the faith of the people in the rule of law and in the judicial process.

(4) All para-military or extremist organisations preaching communal hatred, such as Vishwa Hindu Parishad and RSS, should be banned and, to begin with, their public activities should be restrained. During the riot period, all newspapers and periodicals should be screened for rumours and misreporting as well as for malicious and mischievous writing and should be dealt with in accordance with the law.

(5) To impart a secular outlook to our younger generation, all textbooks of history and languages should be screened expeditiously for objectionable matter and the educational system should be reviewed.

Trouble perhaps arose because while the memorandum listed some Hindu organisations as being communal—the Vishwa Hindu Parishad and the RSS—it did not refer to Muslim organisations which are no less guilty of “preaching communal hatred.” Had we not so defaulted our bona fides might not have been suspected. But the fact remains that we demanded ban not only on Hindu communal organisations but, to quote from the memorandum, on “all para-military or extremists organisations, preaching communal hatred.” Despite the political misuse of the memorandum against the Congress (I) by

Shahabuddin and his friends, the Prime Minister has not misunderstood our role in this regard. 'On the contrary, when I discussed the matter with her about a week ago, she was only worried about its repercussions on Hindu communal elements. She wanted that Muslim MPs belonging to her party should not allow themselves to be used by persons, who, in the name of Islam, want to exploit the communal situation for their own partisan ends. That unfortunately has happened.'¹

An Observation. Incidentally, one should carefully examine the current tendency, whenever atrocities against Muslims cannot be denied, to quickly find a scapegoat in the RSS. The Muslim MPs seem to be all too ready to accept this popular demonology. In Jamshedpur, in the Muslim refugee camps, the young people who had many horrible tales to tell, and spoke in great anger, acknowledged however that they had not noticed any RSS involvement in what had happened, though Deoras was reported to have been in Jamshedpur a short while earlier. 'I am reminded of what a Muslim leader told me in Lucknow while discussing what he alleged was discrimination against Muslims in recruitment to jobs in the public service, "True, we have had two Muslim Presidents of the Republic," he said. "But it would seem that it is easier for a Muslim to become President of India than to secure the job of a chowkidar in the Lucknow secretariat." Mr Shahabuddin has given great offence to a certain type of secularism by drawing public attention to the meagre representation of Muslims in most sectors of employment, both public and private. To borrow the idiom of Mr Shahabuddin's critics, would it not be a sad day when protest against injustice produces more shock waves in political circles than injustice itself?

'It is strange that when Muslim leaders were exercised over largely imaginary grievances like the status of Aligarh Muslim University and the threats posed by a common civil code, the response of politicians was conciliatory and full of solicitude. The moment Muslim leadership descended from this sentimental plane and started talking of real issues like the denial of equal opportunities and the insecurity abetted and even aggravated by the hostility of those in charge of law and order, the leadership is accused of grave lapses from true secularism. When a Muslim leader complains that not even one per cent of the work force in the Central Secretariat or among the commissioned ranks of the defence services is Muslim honest

¹Rafiq Zakaria, 'Role of Muslim M.P.s : Fall-out of the Memorandum', Times of India, 22 Feb. 1983.

politics, instead of irrelevantly invoking secularism, should face facts and redouble the national effort towards securing justice for all. There could be no more disturbing indictment of our political usages than that they have driven any citizen 'to feel an alien in one's own land.'¹

Jamiat Movement. The Jamiat-e-Ulema Hind in a memorandum to the Prime Minister, Mrs. Indira Gandhi, said that it would launch on 21 February 1983 a civil disobedience movement in collaboration with other like-minded forces unless its demand for curbing communal trends in the country are conceded. The movement—Mulk-o-Millat Bachao Tehrik—was headed by Shahnawaz Khan, a former Union food minister. In the memorandum, which outlined the circumstances of "despair and frustration" due to recurring communal incidents in the country, Shahnawaz Khan made several demands. These included action against intelligence services and district authorities for their failure to prevent communal riots, setting up of special courts for disposal of cases related to communal conflicts, raising the compensation to Rs. 1 lakh per dead person and a compulsory insurance scheme on nominal premium. The memorandum also demanded 30 per cent reservations for Muslims in PAC and BMP, purging of government services of persons affiliated to the RSS and deletion of the clause from the Indian Constitution relating to the uniform civil code.

The memorandum further expressed its anguish at the "unabated violation" of values of secularism and the unmitigated Muslim baiting at the hand of communal chauvinist forces. It protested against the "verbal assault launched under the leadership of the RSS and Vishwa Hindu Prishad against the entire Muslim community, over a few conversions in Meenaksipuram", the unchecked propaganda about Muslims receiving foreign money to convert India into a Muslim majority nation. It also alleged that even the official agencies lent a hand to add to "the credibility of such falsehoods." The memorandum also pointed out that though the Prime Minister had promised that action would be taken against those responsible for the Moradabad tragedy, nothing was done. Consequently, tragedy repeated itself in Bihar Sharif, Baroda and Trivandrum.

The Prime Minister, Mrs. Indira Gandhi on 21 February said that the government could fight against communal elements only if it got the full support of the minorities. In a letter to Shah Nawaz Khan, leader

¹V.V. John, 'Glosses on Secularism', Indian Express, 7 Feb. 1983.

²'Jamiat Plans Civil Disobedience', Times of India, 20 Feb. 1983.

of the Jamiat-e-Ulema Hind, who had threatened to start a movement demanding a curb on communal elements, Mrs. Gandhi said that there were communal elements in all communities amongst Hindus and Muslims." In Meerut many felt that Manzoor Ahmed's role had been harmful" she added. Mrs. Gandhi said that no minority could survive if their neighbours of the majority were irritated. "Any step taken hastily can be counter-productive," she said.

She added "in Karnataka propaganda such as yours made the minorities go against us." The result was that weaker sections and Muslims now had very little representation in the State Assembly—only two Muslims in the Karnataka Assembly. "Any satyagraha of the kind you have in mind and however peaceful you may think it will be, will be regarded as a direct hit at the Congress. In Bengal and Tripura our main opponents are the Marxists but in the rest of India only the Jana Sangh—now the Bharatiya Janta Party—can be benefited if we are weakened. Do you not know the views of the BJP and the RSS ?¹

Since most of the Christians are located in South India where missionary work first started, available statistics show that the Christian community ranks above the general population in several major indexes of social and economic development viz. literacy and urbanisation. Over half of the Indian Christians are Roman Catholics. The place of the Indian Christian community in the political life of India has been inconspicuous, the reasons being obvious. First, a large number of Christians came from the depressed classes who took no interest in political affairs. Secondly, the bulk of the community had been intimately associated with foreign missionary bodies and tended naturally to remain linked with its foreign leaders. Thirdly, the Christians, like the Muslims, did not like to associate themselves with a political movement which used such Hindu symbols as *Bande Mataram* or Gandhi's *Ram Rajya*. However, a number of Indian Christians have played a significant role in the national struggle for independence.

The problems involving the Indian Christians are many and varied but not very serious. Major problems of the community are the right to propagate religion and the missionary activities. Both these aspects are knit together in the field of education. Education by Church-sponsored agencies has had a long history in India. But it was not until the beginning of the 18th century that the European missionaries, who came in the wake of the colonisers, began setting

¹Indian Express, 22 Feb. 1983.

up schools. The number of Christian missionaries in the country has increased considerably after independence.

The Sikhs constitute another important religious minority in the Indian sub-continent. They are neither a race, nor a nationality nor a caste, but primarily the followers of a religion. Although of Hindu background they form a community which is of importance by reasons of traditional prestige derived from its religious and political history in the country rather than from its number. They are scattered throughout the length and breadth of the country but are more concentrated in Punjab.

With the creation of Punjabi Suba, the chief demand of the Sikh community is fulfilled. While discussing the various factors connected with this demand, Dr. Baldev Raj Nayer writes : "The basis of the demand for a separate Punjabi-Speaking State or Punjabi Suba is the sense of grievance among the leaders and the rank and file of the Akali Dal that there is discrimination against the Sikh community. It is felt that only if there is a State in which the Sikhs are in an influential political position an end can be put to this discrimination, and justice assured for the Sikh community." Master Tara Singh said in 1961 : "The only discrimination against the Sikhs was about the non-formation of the Punjabi Suba." Thus with the acceptance of Punjabi Suba the main cause of restlessness in the nature of discrimination against the Sikh community is done away with. The demand for Khalistan has been discussed in Chapter 22.

The position of the Anglo-Indian community in the country vis-a-vis other minorities can be judged from the following comments of its leader, Frank Anthony : "India was the only country where Anglo-Indians are recognised and enjoy the finest opportunities." Similarly, at the annual general meeting of All-India Anglo-Indian Association, the President of the Association remarked : "The association is synonymous with the continuing well-being and indeed, the survival of the community as a respected and recognised entity in the country." He further added : "India was the only country which meant home to the Anglo-Indians where they were recognised and respected on their own terms."¹

Position of Muslims in Present India. The (post-independence) era provided a good deal of opportunity for economic and social development to those who had an enterprising nature and were ready to put in hard work. The post-freedom days are marked by a compara-

¹*Ibid.*, pp. 160-70.

tively vigorous growth in the field of sari-weaving and other handicraft work, carpet-weaving, bangle-making, zari and chicken work, the fruit, vegetable and meat business, hide and tanning work, carding, dyeing, carving on wood, ivory work and a host of trades and occupations which are either exclusively or mainly owned and run by the so-called Muslim lower castes. These classes have improved their economic status and, thereby, social status in Indian society in general but more visibly among their coreligionists. In many places, the upper-caste Muslims offer their daughters in marriage to the sons of Muslims whom only a few decades ago they despised as low castes.'

These occupational castes of the Muslims do not complain of any step-motherly treatment from the state. But the complaint of the sons and daughters of the former Muslim landed aristocracy and the professionals, particularly those depending on government jobs is, speaking generally, unenviable. They usually go in for formal higher education in the humanities and the social sciences and hope that, by qualifying themselves in these fields, they will be able to obtain a job in one of the government departments which will assure them respectability and protect them from engaging into manual labour. . . . It is mostly the Muslims of this class who, as a matter of habit, keep bemoaning the lack of opportunities and facilities for their social education, economic and professional growth....In sum, the educated Muslim classes should develop a sense of realism, shed the old feudal psychology of looking at group relations in terms of inferior-superior, wean themselves away from the pathetic feeling of overdependence on the state, try to solve their problems themselves and with brotherly help and appreciation from the Hindus and other sister communities. They should try to spell out their problems concretely and in the overall context. They should promote a self-searching insight and give up the all too ready impulse of blaming others for their problems.¹

III. Religious Political Parties/Organisations And Electoral Politics

In Chapter 19 entitled *Political Parties* we have briefly discussed the aims and roles of religious (communal) parties like the Hindu Mahasabha, Bharatiya Jana Sangh, Republican Party of India, the Akali Dal, the Muslim League and the Jamiat-i-Islami. Such parties and leaders of various communities have been responsible for most of

¹M. Rafiq Khan, 'Muslim Indians : Roots of Overdependence on the State', Illustrated Weekly, 23 Nov. 1980, pp. 17-20.

the evils resulting from communal politics or mixing of religion with politics. Partition of the country was the worst result of such politics, which was deliberately encouraged by the alien rulers. But even after the attainment of independence, such politics has continued ; and it constitutes a grave threat to Indian unity and the working of democracy.

It is an open fact that RSS was keeping the Jana Sangh as its political wing. In order to hoodwink the people Golwalkar men took on the mask of Bharatiya Jana Sangh which according to Balraj Madhok was in the political field "the ideology of RSS". Obviously RSS and Jana Sangh were separate organisations, but the workers of Jana Sangh were drawn mostly from the RSS. Jana Sangh was able to build its party organisation, because RSS organizational facilities were commissioned. Although the party started just three months before the first general elections of 1952, it secured 3.1 per cent of total votes and got recognition as an All-India Party. In 1957 its percentage of votes went up to 5.9 per cent. It further increased to 6.4 per cent in 1962 which went up to 9.4 per cent in the fourth general elections.

Just as caste associations became pressure groups in post-Independence India demanding share in political power, religious associations, at times, attempted to do the same. These associations on occasions came together and put pressure to influence the policies of the government. A good illustration of it can be the 'Cow Slaughter' demonstration outside Parliament in which many of these associations participated. Shashtra Dharam Prachar Sabha in a pamphlet raised their voice against the Hindu Code and attacking Nehru said : "We cannot accept the authority of a Nehru, an erring mortal and a slavish imitator of the West to enact laws in defiance of the Shastras, God's spoken words, written down for our benefit by all seeing Rishis." At times they help the politicians indirectly. Divine Light Mission (DLM) and similar other associations have been instrumental in increasing the influence of some politicians knowingly or unknowingly. Political activists do not miss an opportunity to increase their area of operation with goodwill of these associations.

From an analysis of organizational features and the methods of working of RSS, Anand Marg and Divine Light Mission many interesting parallels emerge. Although born in different social situations there are many common things at the organizational level. All the three have well-knit organisations with a para military wing. The militaristic ethos of decision-making at the top is prevalent. The

leaders pose to be charismatic and their word is law. For organisational growth and membership expansion, person-to-person approach has been very effective. All of them deny to be political, but each one of them has political commitments. At the level of political ideology RSS and Anand Marg reject democracy and communism and wish to establish an utopia of "Hindu-Society" and "Saravipra Samaj" respectively. Although predominantly religious, these associations have not hesitated to use violence whenever need arose.¹

The Jamat-e-Islami, a religio-political organisation, was formed in 1941 by Abdul Ali Maudoodi. It aims at the establishment of the Islamic way of life in India ; and as politics is an inalienable part of life, the Jamat cannot ignore politics. 'But it cannot participate in the present un-Islamic political process and support any development activity repugnant to its ideology. It believes in persuading non-Muslims to accept the Islamic way of life in order to establish an Islamic State in India. It may then participate in Indian political life and support all developmental programmes. The Jamat does not seem to realise whether anyone, who says that he would accept the political process only when the people in India accept his religious way of life and support only those national programmes which his religion approves of, deserves to be a citizen of India. The followers of the Jamat do not realise what would be the fate of the religious minorities if the religious majority adopts and enforces a similar policy.

An All India Muslim Convention, the first of its kind in India, since Partition, was held in New Delhi on 10-11 June 1961. Over 600 delegates including several eminent Muslim leaders from various parts of the country took part in the Convention. The main political parties represented were the Congress, PSP, and Communists. Maulana Hifzur Rehman, chairman of the reception committee declared while addressing the Convention : 'We have assembled here to take stock of all that has transpired during the last 13 years and devise means that might create in the country an atmosphere of true secularism and democracy and implement the supreme directive of our Constitution, so that all injustices and discriminatory treatment meted out to Muslims against the very spirit and purpose of our Constitution might be redressed and Muslims rescued from their present state of uncertainty, insecurity, tension and frustration.'

Dr. Syed Mahmud, a former Union Minister and an eminent

¹Mahendra Kumar Saini, '*Militant Religiosity in Indian Politics in India*', I.J.P S., July-Sep. 1973, pp. 328-36

Muslim leader, who presided over the Convention observed that the country would suffer a grievous loss if Muslims, being the largest and most important minority in India, 'fall a prey to economic distress, are treated as second-class citizens and are deprived of the opportunities of contributing their talents and energies to the cumulative uplift of the country.' The Muslim Convention at its two-day session unanimously adopted resolutions on national integration, communal disturbances in various places, representation of Muslims in government services, trade and commerce, etc. The Convention was sharply divided on the resolution on national integration. There was sharp difference of opinion on the issue of naming the communal parties and condemning their activities. Z.A. Ahmed (Comm.) was of the opinion that parties like Jana Sangh, Hindu Mahasabha, Muslim League and Jamat-e-Islami should be condemned in the resolution for fomenting communal hatred. This view, however, was countered by Maulana Hifzur Rehman, who said that the main purpose would be lost if they went on attacking other parties, he said.¹

An Illustration. The total picture of the Faizabad constituency may best be seen in the following chart, showing distribution of votes by parties in Faizabad Constituency for 1957 and 1962, in percentages.

Political Parties	Rural		Urban		Total	
	1957	1962	1957	1962	1957	1962
Congress Party	54.6	53.4	52.3	41.1	53.2	46.7
Bharatiya Jana Sangh	21.4	27.0	16.9	33.3	19.0	30.2
Muslim Independent	4.2	12.2	3.4	18.6	5.7	15.5

One can see in the chart the rise of both the Muslim Independent and Jana Sangh parties and the commensurate weakening of the Congress party. While the Jana Sangh candidate for the Legislative Assembly was defeated, ominous signs for the future might be read into the communal struggle that resulted in the respective rise of both the Muslim and Hindu communal parties. As one might suspect, the increase in support came not from the peasant-dominated villages but predominantly from the elite castes, especially Rajputs, and from the urban areas. Since India continues to become more urbanized, this

¹Indian Affairs Record, July 1961.

trend may continue in areas where elite castes became disenfranchised by land or other economic reforms.

'The claim by Gould that "politics in modern Faizabad have naturally tended to reflect and correlate with basic...political patterns characteristic of Uttar Pradesh" seems borne out by the parallel rise in voting strength of the Jana Sangh in the Faizabad district and Uttar Pradesh. But when Gould says this reflects the "Indian nation as a whole", he is on less stable ground. Looking at the election results since 1951, we may observe that the percentage of support for the Jana Sangh in Uttar Pradesh rose from 6.37 percent in 1951 to 21.67 per cent in 1967. Likewise the percentage gained in Madhya Pradesh was from 7.2 per cent to 28.28 per cent in the same period. Yet, nationwide the polling power of the Jana Sangh rose from only 3.1 per cent or 3 seats out of 486 in the Lok Sabha in 1951 to 9.41 per cent or 35 out of 515 seats in 1967 of which 22 represented Uttar and Madhya Pradesh. It does not take an astute political scientist to realize that since 22 of 35 Lok Sabha seats were from Uttar and Madhya Pradesh, the Jana Sangh was well ensconced there but could hardly be called a national power.'¹

'It is possible, in fact necessary, to approach the issue from two angles. First at least in theory the Muslims have had two options open to them in independent and democratic India. They could have either continued to live in their cultural shell in the conviction that it was necessary for them to do so in order to preserve their socio-religious identity or they could have actively participated in the secularisation process that has been on despite many obstacles. They have not been able to resist the latter development, as is evident from the rise of a new western-educated middle class among them and the secular aspirations of this class. But by and large the community has chosen to live in its ghetto. The problem is more acute in north India than in western India. But it exists throughout the country.'²

Though Smt. Gandhi is apparently more popular among the Muslims than any other political leader, no party can take their support for granted as the Congress could up to 1975 and the Janata in March 1977. In view of their alienation from Congress (I) on the issue of forced sterilisation in 1976, Smt. Gandhi must convince them

¹Larry D. Shinn, *Indian Communalism and the Secular State*, I.J.P.S., Jan.-March 1971, pp 37-38.

²Giri Lal Jain, *Role of Indian Muslims : Participation Limited to Poll*, Times of India, 26 Sep. 1979.

that she means well by them. 'There is a lively debate among them on the merits of various organisations, including the Janata despite the presence of the Jana Sangh in it. This has inevitably encouraged the leaders to compete for their vote. While the efforts of some Muslim leaders to form a united front and impose their terms on whoever seeks their support have virtually petered out, the community is much more assertive than ever before since independence. This has compelled political leaders to define their stand on various issues which the community considers important—the Muslim Personal Law, the status of the Aligarh University, representation of the community in political institutions and government jobs, security of life and property and so on.'¹

IV. Communal Riots/Disturbances

Communal riots or disturbances have been a recurrent feature of Indian society even after the partition of the country. The following tables make this point clear.²

Number of Communal Incidents in the Country

Year	No. of Incidents	Year	No. of Incidents
1968	346	1971	321
1969	519	1972	240
1970	521		

Number of Communal Incidents in U.P.

Year	Number	Year	Number
1948	67	1961	84
1950	468	1964	5
1953	8	1966	5
1956	30	1968	62
1958	16	1969	22

Communal riots went on increasing from 1966 to 1969 when 603 people were killed in a single year. From 1967 to 1970, the

¹*'The Muslim Vote'*, Times of Indir, 19 Dec. 1979.

²K.K. Wadhwa, *op. cit.*, p. 155.

average number of people killed was 321 a year. The figure fell to 103 in 1971 and to an average of less than 60 per year in the six years from 1972 to 1977.¹ It is noteworthy that more than 300 riots took place since the Janata Government came to power in March 1977. The number of fatalities in the 136 riots during the first eight months of 1978 were quite close to those resulting from 188 violent clashes between the two major communities all through 1977.² There were 230 incidents in 1978 and during the first six months of 1979 there were 103 riots.

The Aligarh riot of October 1978 was the most serious. The Aligarh outrage could not be viewed in isolation but in conjunction with two serious communal riots in Hyderabad and two in Sambhal and Varanasi in U.P. in the preceding months. They were a cruel reminder that the communal virus persisted in the country's body politic. Jamshedpur, like Aligarh, became a by-word for communal carnage. After a second orgy of murder, arson and looting in less than four months, only a tenuous peace returned to the steel city in September 1979. No one could say for sure that there would not be a fresh flare-up there before long. Nor was the macabre death dance in Jamshedpur an isolated incident. Mercifully, nothing so shocking had been reported from elsewhere. But in Bihar alone communal tension had been mounting in places like Ranchi, Biharsharif and Katihar and there has been a fairly serious clash at Sasaram in Rohtas district.³ There was a wave of rioting that rocked several cities in Gujarat in August 1980. There was violence in Ahmedabad, Baroda, Mehsana and elsewhere. There can be no question that Bharatiya Janata Party continued to organise processions, meetings and dharnas in flagrant defiance of the law, ostensibly in protest against the government's failure to control inflation.

In March 1982, the picturesque district of Kanya Kumari—Nagercoil area—in Tamil Nadu was in the throes of a bitter conflict, between Hindus and Christians, who until a few years ago had lived in amity. While there has been an increase in the Christian population—partly due to natural growth in view of the well known opposition of the Roman Catholic Church to family planning and partly to the aggressive proselytisation of Christian sects—the Vivekanand Rock Memorial Committee (VRMC) managed a ferry service for the

¹N.S. Saxena, 'Communal Riots Today', Times of India, 29 Nov. 1978.

²Inder Malhotra, 'An Unending Nightmare', Times of India, 4 Nov. 1978.

³'Call It off', Times of India, editorial, 20 Aug. 1980.

pilgrims and tourists who visited the memorial. The VRMC seemed to have provided the nucleus of attention for the Hindu groups perturbed over the danger posed by the expansion of Christianity. The RSS, the Vishwa Hindu Parishad and the Hindu Front came into the picture. The reaction to the cry of 'Hinduism in danger' was also evident. Christians of various denominations also came together.¹ Communal tension between the two communities led to clashes.

Causes of Communal Riots/Disturbances. As has already been pointed out by us in section I in India the conflict between these two communities has the special character of being one that was scrupulously fostered by the Britishers, well according to their policy of 'divide and rule'. E.M.S. Namboodiripad very rightly observes: "Every time a mass anti-imperialist movement reached the zenith of militancy, Hindus and Muslims were turned against each other; the unity of the anti-imperialist movement was thus weakened. This naturally led to the inevitable partition of India and all that followed the formation of two states on the religious basis." After independence the communal tension not only got heightened, but religious (communal) conflicts have also extended to newer areas. 'Thus apart from the Hindu Muslim conflict we find communal riots/tensions between Hindus and Sikhs or between the Sikhs and the Muslims. A second feature of post-independence communalism and religious conflict is the frequent involvement of religion in the country's politics.... So, the riots apart, one may refer to the agitation in and around Aligarh Muslim University, the Muslim Convention of 1961, the role of Muslim League in different parts of the country (especially in Kerala). A fresh religious approach to politics is what all these contribute to. To quote Morris-Jones: 'all these testify to a situation of continuing communal consciousness in which the Hindus' distrust and discrimination and the Muslim sullen and despairing isolation feed eagerly upon each other.'²

It is true to say that they are also responsible, in a large measure, for continued communal tension and recurring communal disturbances. The Jamat-e-Islami has been regarded both by nationalist Muslims and the non-Muslims as the Muslim counterpart of the RSS. Both Hindus and Muslims were at fault in regard to the Aligarh riots in October 1978. A correspondent aptly remarked

¹V.G. Prasad Rao, 'Kanyakumari : Roots of Communalism-I' Times of India, 29 March 1982.

²A.K. Mukhopadhyay, *Society and Politics in Contemporary India*, p. 21.

that the RSS had provoked violence and the Muslims replied with bullets. The RSS was accused of complicity in communal carnage for the first time, since it became, through its unbreakable link with the Jana Sangh, part of the ruling establishment under the Janata umbrella, both at the Centre and in U.P.¹

The five-member inquiry commission, headed by a judge of Patna High Court, blamed major administrative lapses and aggressive behaviour of Hindu communalists preceding the disturbances and panicky reactions of the minority community for Jamshedpur riots in April 1979. The report further said: 'After giving careful and serious consideration to all materials on record, the Commission is of the view that the RSS with its extensive organisation in Jamshedpur and its links with the Jana Sangh, had a positive hand in creating a climate which was most propitious for the outbreak of communal disturbances.'²

'Indeed, what the commission has to say about the RSS chief, Mr. Deoras's own role in the train of tragic events in Jamshedpur demolishes the credibility of his present protestations. At a RSS camp only a few days before the riot broke out Mr. Deoras made a speech encouraging extremism among Hindu communalists and asking them to adopt an "unyielding attitude" on a disputed route for the Ram Naumi procession that became the "proximate cause" for "rioting arson plunder and firing."...But the fact remains that in the case of the Jamshedpur riot, the guilt of the RSS has been practically nailed. This should be a matter of the gravest concern to the country as a whole.'³

Due to the growing affluence of some Muslims connected with the brass industry and otherwise, some Muslims have now entered the export trade thereby cutting into the hitherto fabulous profits of the Hindu middlemen. This created tension between the two. Moreover, growing prosperity might have encouraged irresponsible or arrogant youth behaviour among some Muslims. When therefore some anti-social Muslim elements beat up a Harijan bridegroom a few days before the Eid in August 1979, it is possible that some disgruntled Hindu traders or exporters or some anti-Congress elements (probably Hindu) egged on the Harijans to push a pig into the Eid congregation, calculated to spark off communal violence which could

¹Inder Malhotra, 'Implication of Atigarh', Times of India, 26 Oct. 1978.

²'Hand of the RSS', Hindustan Times, editorial, 15 Sep. 1981

³'A Strong Indictment', Times of India, editorial 15 Sep. 1981.

subsequently be used as cover for harming and harassing their Muslim rivals. 'Some persons contend that communal disturbances break out in Muslim-dominated industrial pockets precisely to cripple Muslim industry. However, we should not lose sight of the fact that a communal riot, like a railway accident, attracts attention because it is rare. Moreover, other factors like temperamental excitability, group ratio, social class, urban or rural background also play a crucial role in a riot.'¹

Political participation has grown enormously thanks to the seven general elections and the innumerable local elections that have taken place and thanks to the entry of politics into virtually every sphere of life. It is no longer possible to properly disinfect those entering politics from religion and culture. 'In sum, contrary to the dominant dogmas, secularisation has not kept pace with politicization in India.' Finally, the political and cultural climate in the country today—born out of undue emphasis on Hindi, regional rights, caste and cow protection etc. on the one hand and a fillip to the forces of Muslim fundamentalism on the other—is one of illiberalism and intolerance. Not only is there no early prospect of an improvement on it, but rival fanaticisms seem to be feeding on each other.²

"To sum up, certain general observations appear warranted. First, it seems that, while communalism has a long history in India, there is reason to believe that the character and nature of communalism has changed in recent years, particularly during the last two decades. This is suggested to some extent by the internal shifts in the nature, orientation and location of communal riots. Secondly, communalism needs to be viewed in a different light now. Communal riots have traditionally been viewed as an indicator of social breakdown. It seems that communal tensions are actually a sign of dynamism and of secular changes that are taking place in the Indian society as a result of economic development and modernisation.'³

'Communal riots in recent years are qualitatively different from those in pre-partition and immediate post-partition years, from 1946 to 1950. There have been two major developments in the post-independence era. First, practically all the social malcontents have joined

¹Jamal Khwaja, '*Causes of Communal Tensions-II*', Times of India, 9 Dec. 1980.

²Ashish Nandy, '*Re-learning Secularism : Present Strategies at a Dead End*', Times of India, 20 Jan. 1981.

³Imtiaz Ahmed, '*Communal Riots in India : Part of General Social Strife*', Times of India, 1 Dec. 1981.

one party or the other. They are almost evenly distributed. Secondly, communal riots have almost ceased to be a fight between the two communities. They are goonda operations with the approval of patrons who have over the years, built up virtual arsenals of licensed and unlicensed firearms.

'We should get rid of the "sudden outburst" theory. There are always numerous signs of tension which any alert intelligence agency can see. Often enough, preparations are made to store brickbats, acid bulbs, knives and other lethal weapons. Small incidents do not evoke the heavy-handed response which is essential. Deficiencies in the number of police personnel and equipment have, in many cases, been removed but the greatest deficiency remains, demoralisation and lack of initiative. When a crisis breaks out officers at the level of SHOs, deputy superintendents of police, SDMs, additional SPs, and ADMs run to the nearest telephone. District magistrates are often on the hot line with the state capital. In the state capital itself there are several voices. While this goes on, the rioters do not wait. Within half an hour or so of the start of a communal incident, anti-social elements intervene on a mass scale and loot shops.'¹

V. Remedial Measures

The inquiry Commission which inquired into the causes of Jamshedpur riots has made several recommendations among which the most important is a direction that educational institutions, whether public or private, should not be allowed to be used as propaganda bases by communalist parties like the RSS and the Jamiat-e-Islami. It is criminal of these parties to try to warp the minds of innocent school children and to raise them as communal bigots. Some States have already banned the use of schools for holding "shakhas" and drill but there are still many States where this nefarious practice continues. The Government of India has examined the possibility of banning communal organisations, but probably it has not found it feasible. Even then, severe restrictions should be placed on the undesirable activities of communal leaders and organisations.

'The nature of communal tension has undergone a subtle but important change over the years. Emphasis has shifted from political and security considerations to economic and social factors. This transition needs to be properly understood since fighting communalism

¹N.S. Saxena, 'Communal Riots To-day : Coming Down Hard on Goondas', Times of India, 29 Nov. 1978.

is not the same thing as promoting secularism. While the country has focussed on the first, it has been misled into thinking that the other must automatically follow. This conceptual confusion has been responsible for a great deal of woolly-headedness regarding the causes of contemporary communal and other group tensions and the remedies that should be sought.¹

Administrative machinery should be thoroughly streamlined to prevent the outbreak of communal disturbances; and even if they occur they should be suppressed with a firm hand. For this purpose, several steps should be taken. Police organisation should be strengthened and it should be supplied with all necessary equipment. Members of the minority communities should be given greater representation in the police force, so that a sense of security may be created in the minorities. Police force should be reinforced with a new anti-riot force, which the government has already decided to set up with substantial representation for the minority. Intelligence department should also be geared up. The local and district administration should be held responsible for delays and lapses on its part in dealing with the disturbance. But at the same time the State Government and legislators should not interfere with their normal functioning and performance of duties.

The Union government has decided to assume powers to declare an area anywhere in the country as disturbed area under the Disturbed Areas (Special Courts) Act, 1976 and to set up special courts in such areas for providing speedy trial of certain offences. At present this power under the Disturbed Areas (Special Courts) Act vests in state governments. The Union cabinet has also decided to amend the Act to confer concurrent powers in this regard on the Central Government. The Union Government also appointed a Minorities Commission early in 1978, to safeguard the interests of religious and linguistic minorities, to preserve secular traditions, to promote national integration and to remove a feeling of inequality and discrimination among the minorities.

All necessary steps should also be taken to establish communal harmony. In this connection it should clearly be realised that our objective should be Hindu-Muslim amity (friendly relations among various communities) and not mere co-existence. An important instrument of bringing about such an atmosphere is making the National Integration Council fully active. This aspect has been discussed in

¹'Promote Secularism', Indian Express, editorial, 16 Sep. 1982

Chapter 25. Other important suggestions in this connection are: (1) All educational institutions—their students, teachers and managements—should be cleared of all communal elements. (2) Members of the Governments, legislators and political leaders should keep aloof from all sorts of communal activities and they should not interfere with the normal working of the administration. (3) All government officers and employees should be free from communal virus. (4) Political parties and leaders should not mix religion with politics. (5) Only secular parties should be allowed to fight elections and exercise political power on the basis of an ideological perspective whereby genuine sectional interests are safeguarded in the over-all framework of national development. (6) System of recruitment and promotion in civil services should be evolved for weeding out communal and caste elements.

CHAPTER 24

Caste and Politics

1. Introduction

Casteism, Integration and Democracy. Casteism is one of the four threats to national integration in India, the other three being linguism, regionalism and communalism, which have been discussed in the preceding Chapters. But castes do not pose the same kind of potential threat to the nation-state that tribes, religious communities, and linguistic groups do. In India, the latter have made successful claims to separate political identities; for Muslims, this meant position and the creation of the sovereign state of Pakistan and for others, recognition within the framework of the federal system. Castes have not demanded separate political identities... When castes come to mobilise themselves politically, they are concerned with the distribution of values, status and resources within a political system, not with the realization of nationhood....A caste like the Jats of Rajasthan, Punjab and Uttar Pradesh which spreads across present state boundaries has a contiguous territorial basis and possesses a viable political history (for the Jats, conquests as recently as the eighteenth century), might develop national aspirations. Because castes are ordinarily bounded by language they have affected Indian political life more at the state and local levels than at the national level. In the south, where efforts have been made to draw linguistic and state boundaries congruently, castes do not usually reach beyond the state....In the north, along with Hindi, castes can be found in more than one and sometimes in all four Hindi speaking states.¹

It is generally believed that politics based on caste is not conducive to the growth of democratic institutions, as one of the postulates of democracy is equality. The term 'casteism', therefore, carries an implicit denunciation of projection of caste into the political arena, but the scope and limits of this projection are never clearly spelled out with the result that all intrusions of caste factors into politics

¹Rudolph and Rudolph, *The Modernity of Tradition*, pp. 67-9.

stand condemned. We would like to submit that this omnibus condemnation of all types of interaction between caste system and political system serves only to obscure the implications and limitations of 'casteism' and tends to overrate the importance of social structure vis-a-vis the political system. The whole apparatus of parliamentary democracy is, no doubt, a recent introduction to the Indian soil and there is no gainsaying the fact that many political processes and institutions are dominated by the traditional socio-cultural values and institutions which may take some time to get adjusted to the norms and conventions of modern political democracy. Yet, it is, in our view a case of political defeatism or political cynicism to argue that the Indian social structure is inherently inconsistent with the norms of political democracy or electoral politics.¹

Importance of Caste Politics. 'Now this caste limb of the Indian social life is getting itself felt in Indian politics. Thus one writer reports from Bihar "...caste is the basic category of social differentiation in Bihar, and as such it has deeply impressed the recruitment patterns of the Congress Party." In the U.P. the Panchayat poll offers a picture of the bitterest and the most violent of caste rivalries....Even as late as February 1974 we do not find any weakening of caste appeal in Indian politics. Thus writing on the latest Assembly election held in U.P. one columnist observes, "casting one's vote in U.P. is like giving away a daughter in marriage...The Rudolphys have rightly observed ; "caste associations are para communities that enable members of castes to pursue social mobility, political power, and economic advantage."

Rajni Kothari writes : "The alleged 'casteism in Politics' is...no more and no less than politicisation of caste...caste itself becomes a political category. It is not politics that gets caste-ridden ; it is caste that gets politicised". It has, therefore, been argued that 'involvement in politics secularizes caste, but Kothari and others who think alike do not explain why castes get involved in politics. The position of the untouchables, now called scheduled castes, on the whole, reveals a strong class element in the caste-politics interaction.²

'Caste, as a fundamental aspect of the social structure of India and the economic foundations upon which it is based, is a major parametric of the Indian political system....Caste politics relationship reveals

¹P.C. Mathur, '*Levels and Limits of Casteism in Indian Politics*', I.J.P.S., Apl-June, 1973, pp. 195-96.

²A.K. Mukhopadhyay, *Society and Politics in Contemporary India*, pp. 18-20.

the politicised nature of caste in the context of Indian politics. The politicised characteristics of caste are : First, caste provides an extensive basis for organisation of democratic politics. The need to organise and articulate support in an open polity, inevitably turns those engaged in political competition towards organisations and solidarity groups in which masses are found. In a society such as Indian where caste remains the principal basis of social organisation and activity, this leads to the establishment of groups and associations. In this way caste identity and affinities become the primary channels through which electoral and political support is mobilized within the political system.¹

Second, the relationship of caste to social and political change and to the conduct of government and politics varies from region to region. Some of the factors that affect its role include : (1) the number and size of other castes ; (2) regional differences and their effect on the caste profile of particular states ; (3) differences in the level and characteristics of relevant political system ; (4) the relative significance of dominant and subject castes and their propensities towards vertical and horizontal mobilization ; (5) changes over time in the social and political environment in which particular castes operate and the degree of self-consciousness and cohesion that characterise particular castes ; and (6) the countervailing power of other castes, interest groups, and integrative forces, particularly political parties.²

Individual castes and state political systems are not necessarily characterized by only one pattern of mobilization. 'Carolyn Elliott points out that in Andhra Reddi landed notables are prone to mobilize their interests vertically (and other) middle peasant castes are more likely to try to mobilize their caste fellows through horizontal appeals and structures. In Rajasthan, Rajputs, who had ruled the state as princes, and jagirdars before independence, developed, in the early 1950's, considerable horizontal solidarity and organizational capability in the face of proposed land reforms and the desire to return to power under democratic auspices. The Jats, a large, prosperous peasant caste of Rajasthan, organised horizontally to challenge and counter Rajput dominance even while mobilizing their dependents through vertical means in localities where they were dominant.

'At the level of state political systems, the effectiveness of castes as political actors depends upon a variety of internal and external

¹Babulal Phadia, *Pressure Groups in Indian Politics*, pp. 120-21.

²Rudolph and Rudolph, *op. cit.*, pp. 64-75.

conditions. Internally, critical variables include the number and geographic distribution of caste members available for politicization and mobilization ; levels of political consciousness, literacy and cohesiveness at particular historical periods ; the effectiveness of available leadership ; and relative ritual rank, social status and economic independence. Externally they include the number and power of countervailing interest-group forces ; the effectiveness and reach of party organization and leadership ; the effectiveness with which local notables of dominant castes are able to mobilize their interests and to concert with others at the state level, the degree to which the size of a state, regional differences within it facilitate or inhibit communication, organisation, and the growth of common consciousness and purpose.¹

Political Dimensions of Caste. Under this heading, Kothari says that there are three aspects of the caste system. (1) *The secular dimension*—In emphasizing caste as a stratification system in which distances are rigidly maintained through endogamy, pollution and the legitimacy of rituals, caste as a system of conflict and interaction has received sparse attention. Yet the fact is that factionalism and caste cleavages, patterns of alignment and realignment among the various strata, and continuous striving for social mobility have always been prominent features of the caste system. Traditionally there were two aspects to the secular organization of caste—the governmental aspect (caste and village councils and arbitration procedures) and the political councils and arbitration procedures) and the political aspect (intra-caste and inter-caste alignments and cleavages). These were buttressed or dissipated by the authority relationships of local elites and the centre or centres of society.

(2) *There is the integration dimension.* The caste system not only determines the individual's social station on the basis of the group to which he is born but also differentiates and assigns occupational and economic roles. It thus gives a place to every individual from the highest to the lowest and makes for a high degree of identification and integration. But it is an integration structure of a specific type—one that is more intense in its small group orientation and particularistic loyalties.

(3) *The dimension of consciousness.* The contest for positions between various jatis often follows some variation of varna either by approximating to the reality as in the case of the various layers of Brahminic status, or by invoking a label as in the case of the claims

¹John K. Pulparampil, *Indian Political System*, pp. 402-09.

of certain castes to be Kshatriya. The same holds true though in a lesser degree for the Brahminic symbol. Caste has several meanings, refers to varna at one level and to other meanings of segmentation at other levels. By shifting from one referent to another, it demonstrates the basic continuity between the various referents—doctrinal, ritual, economic and occupational, and associational—political.¹

II. Caste Associations as Interest Groups

Caste associations are para-communities that enable members of castes to pursue social mobility, political power, and economic advantage. The characteristics of the para-community resemble in many ways those of the voluntary association or interest group familiar in modern politics. But the para-community can be distinguished in a number of important respects not only from the voluntary association but also from the natural associations such as caste out of which it has developed. During the eighteenth century the Shanars (in Madras province) were regarded by orthodox Hindus as belonging to the polluting class. But over the past century, this caste transformed itself by creating new units of consciousness, organisation and action. By appealing to the common identity of caste brethren, it mobilized horizontal solidarity against the subjection of caste hierarchy. Today, by successfully changing its caste culture and having this change recognised by the state and by Madras society, it now occupies a new and higher place in a changed social order. In the period after World War I, Nadars turned to a new sector to increase their status and influence politics. During 1919-35 period, politically self-conscious and active Nadars associated themselves for the most part with the anti-Brahmin Justice Party and its non-nationalist and cooperative politics. Democratic politics spurred on the development of caste associations. After World War II, even before adult franchise had been introduced the Vanniya Kul Kshatriya Sangam pressed two demands on the Congress party ministry : (i) appointment in the State civil services reflecting the Vanniya's percentage in the population ; and (ii) through party nominations, an assurance that they would be elected on population basis to the local bodies and the State legislature.²

Castes take on an openly secular form for new organisational purposes, such as : (a) 'associations' of caste members ranging from

¹Rajni Kothari, *Politics in India*, pp. 227-31.

²Rudolph and Rudolph, *op. cit.*, pp. 29-53.

simple hostels and recreational bodies to reform clubs and pressure groups ; (b) caste 'institutions' or 'conferences' that are more broad-based and cover districts or even States ; and (c) caste 'federations' composed of not one but several castes which may sometimes be socially homogeneous but which at other times simply have some specific interest or political objective in common. 'It is this specificity of purpose that distinguishes these new organisational forms castes associations and caste federations from the more inclusive and ascriptive bodies traditionally known as caste. Generally speaking, they are oriented to the securing of economic benefits, jobs or special concessions, or for the more clearly political purpose of uniting to fight the hegemony of the 'upper castes' or the ruling castes', or for bargaining with a political party or the government, but in all cases for one or more specific purpose.¹

The process of articulation has taken one of these two forms : (1) In places where a large and homogeneous 'dominant caste' prevails, rival factions within the dominant caste led by individual leaders tend to draw their additional political support from adjacent and non-adjacent caste groups. (2) In a multicasite situation made up of three or four castes, each fairly large but none in a position to acquire a place of dominance, the alignments take the form of coalitions of castes and sub-castes struggling for power 'There are many variations of both these types....And in all cases it is the secular potential of caste that is brought out by its adopting an associational form of organisation and then functioning in an inter-organisation and then functioning in an inter-actional framework. A clear instance of the secular orientation of caste organisation is provided by the political articulation of the 'lower castes' in India. These are found to federate together into a common organisation and then press for their demands.

Some Illustrations. Gujarat Kshatriya Sabha is a caste federation, representing many caste and lineage groups, most of them drawn from the economically depressed communities of cultivators. The Sabha is largely responsible for spreading the 'Kshatriya' label, and the consciousness that goes with it, to many caste groups ranging all the way from Rajputs, who are highest in the Kshatriya hierarchy, to Bhills who are semi-tribal with Bariyas (a Koli caste) middle of the way. Socially, there is great distance among the various castes in the Kshatriya hierarchy ; but economically, barring the well-placed

¹Rajni Kothari, *Caste in Indian Politics*, p. 21.

Rajput nobles, most of these castes are poor and landless. It is common economic interest and a growing secular identity born partly out of folk-lore but more out of common resentment against the well-to-do castes that have brought these different castes together in a broader organisation.

In Tamil Nadu, the Naders, traditionally toddy tappers, founded the Kshatriya Mahajan Sangam in 1910, which dissociated itself from the word 'Shanar', symbolic of their low place in social hierarchy. In 1921, the Executive Council of the Sangam called upon its members to return their castes as Kshatriya in the forthcoming census. With Independence, the overwhelming majority within the Nadar community supported the Congress Party, because it had brought temple entry as well as Swaraj. The very success of the Nadar community in its rise socially, economically, and politically has eroded the unity of the community which had in fact made the uplift possible. Differentiation within the Nadar community and the concomitant decline in the elaboration of caste ranking has increasingly undermined the community's political solidarity'.¹

The Reddis and Kammas are excellent examples of dominant castes in Indian society ; they are 'numerically the strongest in the village or local area, and economically and politically exercise a preponderating influence'. The most important source of their power is control over land. With their resources Reddis and Kammas have become the political leaders of the village. In many respects political power is derived from positions of dominance in other arenas of village life. The competition for power takes place between groups first formed for purposes other than politics, while political leaders reach prominence initially through sources of power other than political authority. Politics outside the villages has been carried on by the same dominant caste persons. The political relationships between villages are uneven in breadth and direction.

'Some members of these caste groups have tried to rise within the vertically integrated organisations led by dominant caste leaders. Through this method they have reached intermediate positions of power in the organisation as caste representatives, further reinforcing the multi-caste support of the particular group. 'In the process new types of loyalties have emerged and political groups have attained a life of their own. The development of loyalties to political groups *per se* may continue to provide a process for definition of elite status,

¹*Ibid.*, pp. 106-24.

through seniority, personal loyalty and party identification ; in other words, through induction in the 'dominant elite' of the region. So far, however, these new definitions have been extended only to peasant castes. If they deny participation in real power to less advantaged groups, these latter groups may form caste solidarities to challenge the established groups.'¹

III. Castes, Political Parties and Elections

Introduction '... behind the formal electoral returns, knowledgeable observers discern the intermediaries who join together the ballots of caste groups to the candidate with a party label. Behind the formal lists of party candidates nominated for the contests, there is probably an inside story of careful calculation in terms of caste appeal.' Until the introduction of adult franchise, the politically active sections of rural India were generally men of higher castes than the peasants and for this reason even a mass party like Congress was manned by Brahmins and other high caste men out of proportion to their numbers in the community.

'The politics of adult franchise has in many regions raised the influence of the non-Brahmin middle peasants who are at once numerous and economically substantial. Men from these groups seem to be more prominent in Congress than before... For him (Herold Gould) much of Indian politics manifests a large unconscious jati model ; in other words, even where caste as such is not a unit for political action, the groups which are real units—notably factions in parties or in bureaucracies—are modelled on the principles of solidarity, reciprocity exclusiveness and ethnicity," which characterise caste. If caste is seen retreating in the face of new institutions it must also be seen as having in some measure already shaped its replacements. In the terms used in this Chapter, one might say that the language of even the modern sector has taken its grammar from the language of tradition while adding a new vocabulary.'²

It is quite true that caste in India plays a very important role behind the facade of parliamentary government. 'The political behaviour of people is influenced by caste considerations as is quite evident at the time of distributions of election tickets and formation of ministries. It is seen that persons of a caste vote generally *en bloc* for a candidate of their own caste, if so available, or for some other can-

¹*Ibid.*, pp. 133-65.

²W.H. Morris-Jones, *The Government and Politics of India*, pp. 65-70.

didate in pursuence of the decision of their caste panchayat or some such body. As far as possible and practicable, the people prefer a candidate of their own caste irrespective of his merits and demerits. Hence, while selecting a candidate to a particular constituency, it is foreseen whether he will be able to get the support of this caste or not. Similar regard is paid when the list of office-bearers of a party is prepared. More so, when a single party is not in a position to have its own candidate, alliances are formed on the basis of caste to recommend the name of a person after arrangements of give and take are made to the satisfaction of the constituents'.¹

The upper castes in Bihar form only 13.22 per cent of the population, but their dominance in state's life is much greater than their number would suggest. The numerical weakness of the upper castes is more than compensated by their ritual status, social prestige and economic power. In ritual matters the Brahmins enjoy the first position followed by the Bhumihar Brahmins and the Rajputs. The Kayasthas, although low on scale of the ritual status, have rivalled the Brahmins, in everything connected with the pen. Likewise the Brahmins, including the Bhumihars, and the the Rajputs own a major part of land thereby dominate the economic field. Since caste is the basic category of social differentiation in Bihar, it has deeply impressed the recruitment patterns of the Congress party. The new opportunities for social advancement created under the impact of the colonial regime were initially exploited by the traditionally privileged caste groups. 'The unequal access to resources benefited the upper castes in the initial stages of political awakening in that they dominated the political scene to the exclusion of their non-privileged caste groups. But then the impact of democratic politics was felt and the competition among the upper castes for political power began to widen the circle of political participation and politically ineffective caste groups began to be inducted into the political process. This meant that a trend of dispersal of inequalities started. But the time is still far away when the numerically stronger underprivileged caste groups will come to dominate the political scene in Bihar.'²

In Agra the Jatavas faced some of the problems in making a transition from a 'caste party' to a political organisation with some broader potential. The RPI experienced factional difficulties, similar to those which afflicted the party unit in Maharashtra, where the Mahars

¹J.C. Johari, *Reflection on Indian Politics*, pp. 62-3.

²Rajni Kothari, *Caste in Indian Politics*, p. 255.

were socially in advance of the Jatavas. The problem for such a party, which adopts ideological ends to maintain itself, is that it must strive to hold on to its old adherents while trying to attract new support from outside the group. Since the Agra RPI has held on to its caste support, it has failed in the process to gain new converts.¹

'Parties may appeal to voters directly as individuals or indirectly through the organised groups to which they belong. Direct appeals to individual voters may stress ideology or issues, on the one hand, or community identification through caste, on the other. These appeals may be contradictory or complementary. At the level of the State Assembly constituency, they are often complementary and at the village and ward level frequently so. In constituencies in which caste community is numerically predominant or socially dominant, all parties regardless of ideological, cultural or interest orientation, are more likely to choose candidates from it'.²

Castes and Elections. One of the most important aspect of Congress politics has been the competition for the party ticket for elections. At this time the divisions within the structure of political support within the Congress become most evident. This process has involved efforts not only to widen the basis of support within the social group or groups from which a particular faction draws its main support or from other groups represented in the factional coalition, but also from social groups which had not hitherto been mobilised into the representative and political processes of the Congress Party. 'There have been, therefore, three distinct objects of mobilisation involved in the politics of ticket allocation. First, candidates or factions attempt to extend the base of their support within their own caste. Second, attempts are made to attract and mobilise the support of those castes which may participate in elections but which have not yet developed autonomous organisations and leaders that are involved in politics on a continuing basis. The third object of mobilisation involves those political groups which have been mobilised and have continuity and autonomy in the political process but which have not become a part of the Congress system.'³ Some of the important aspects of the relationship between castes and elections may be discussed as follows :

Selection of Candidates. A parliamentary constituency comprises 5 to 7 lakhs of people and 5 to 7 Assembly constituencies. While

¹*Ibid.*, p. 363.

²Rudolph and Rudolph, *op. cit.*, p. 259.

³*Ibid.*, p. 198.

selecting their candidates, the main contesting parties try to give their tickets to candidates who may command support of the dominant or a large community or caste. This is particularly the consideration in the case of an Assembly constituency. When one or two main parties select their candidates from the dominant caste (or community), other parties select their candidates from the second or third largest castes in the hope that the votes of the dominant caste would be divided. In most of the States where politics is caste ridden, considerations of caste arithmetic weigh heavily with those who have to give tickets to their party candidates.

Caste Appeals in Election Campaigns. The election campaigners often find that appeal to caste loyalties elicits a better response, specially in case of dormant but numerically dominant castes which are coming into their own in the wake of decentralization and democratization of power. As a general rule, the appeals to vote on caste lines are usually made in relation to middle order and low order castes....Further, an appeal to persons belonging to one's caste to vote for a person belonging only to their caste suffers from the obvious political disadvantage that it restricts one's catchment area to a narrow caste base and implies that the vote-seeker does not care for the votes of persons belonging to the other castes. One can, of course, cite some examples of this form of micro-casteism in election propaganda as the recent efforts by Kumbharam in the third and fourth General Elections in Rajasthan to collect Jat vote by harping on the theme that "A Jat must vote for Jat, just as a Jat gives his daughter (in marriage) only to a Jat."¹

Block Voting. Keen observers of General Elections and Panchayati Raj elections have generally commented on the phenomenon of "Block voting" by members of various castes but the precise implications of this blanket concept have never been spelt out. There is no political party which has only a single-caste mass-base as far as voting is concerned and similarly there is no caste which *en masse* votes only for one political party. Owing, however, to a combination of historical, demographic and political reasons, caste-party equations have evolved into certain concrete patterns in some layers of the Indian political system. 'In terms of national politics, for example, it has been demonstrated beyond doubt that electors belonging to 'lower' castes, especially those in the category of scheduled castes, tend to vote for the Congress rather than for any other party. This pattern

¹P.C. Mathur, *op. cit.*, pp. 201-02.

of politico-electoral behaviour had its genesis in the pre-independence era when the top Congress leaders, notably Mahatma Gandhi, attracted their political loyalty, on account of their ideas and services to these depressed people. However, it would still be quite easy to cite innumerable examples of persons belonging to scheduled castes voting for parties other than the Congress.

The caste-party relationships assume a sharper clarity at the State level for it can be easily shown that in certain States a large number of people belonging to a particular caste vote for a given party....In fact, when one talks of 'block voting' the only unit of analysis where such an expression has any meaning or validity can either be the village or Panchayat for at this level the existence of 'vote banks' has been demonstrated beyond doubt. However, whatever be the level of political competition, each party tries to cash on the so-called 'block voting' by caste groups by putting up candidates from the same castes thereby undermining the very basis of block voting. The very nature of electoral contest, whatever the level, therefore, cuts at logic of block voting by castes by forcing the voters to choose between two candidates belonging to the same caste but contesting on different political platforms.

IV. Other Aspects of Caste Politics

Some Notable Patterns. 'While the D. M. K. has become identified with the anti-Brahmin movement, no political party in Madras State is entirely free from the impact of the caste-war, for even inside the Congress the rise of Kamraj was mainly on account of his success in outwitting C. Rajgopalachari a Brahmin by caste....For purposes of political analysis, the basic issue remains the success of non-Brahmin macro-casteism which has resulted in such a situation that no political party in Madras can now afford to relax its anti-Brahmin posture at the micro-level. At the micro-level, one may find a particular Brahmin supporting DMK and DMK supporting a Brahmin but as far as micro-casteism is concerned, no caste or party in Madras can openly come out in favour of Brahmins qua Brahmins. In general, the locus of political power has decisively shifted to non-Brahmin castes all over South India and the other constituents of the Indian political system have to adjust to this pervasive and irreversible change.'

The political parties in Maharashtra were also dominated by Brahmins. The socio-economic conditions of the Maratha caste were

¹*Ibid.*, pp. 198-99.

so depressed that only in the post-independence era the Marathas could successfully displace the Brahmins from the seats of socio-political power. The anti-Brahmin movement in this case also extended to all the political parties and the formation of the uni-lingual Maharashtra State in 1960 marked the consummation of the Maratha power drive. In the new State the Marathas, constituting more than 45% of the total population, have gradually taken over the reigns of political power.

'To sum up, we would again add that both micro-casteism and macro-casteism are the offshoots and manifestations of the emergent power-drives of the low and middle-orders castes ; and the introduction of universal suffrage has given a tremendous fillip to these processes, resulting in rapid and sweeping changes in the pattern of distribution of power in the Indian political system. In some parts, the chain of political changes has reached a climax and the resultant stability is not likely to be disturbed so long as the present pattern of number-based electoral democracy prevails. In other parts of the system, the multiple power-drives are in varying degrees of unstable equilibrium but in these cases also the factor of numbers is heavily weighted in favour of low and middle castes whose indulgence in micro-casteism cannot be considered contrary to basic tenets of democratic theory.'¹

Scheduled Castes and Harijans. The Constitution incorporates special provisions for scheduled castes (formerly called Harijans). They have the benefit of reservation of seats in the Lok Sabha and State Assemblies on the basis of their ratio to the total population of the country or the State. The special provisions were included in the Constitution for a period of 10 years, but they have been extended from time to time, apparently for two reason : (i) as a gesture of fairness and generosity towards their low social and economic status ; and (ii) consideration of political advantage—winning the support in elections. These provisions have already been discussed in Chapter 16. In addition to reservation of seats in legislatures and government services, many other measures have been taken for their uplift.

'In 1977, 123 cases of setting fire to the houses of Harijans were reported. In 1978 and 1979 the number of arson cases was 252 and 321, respectively. It is difficult to assess the actual number of Harijan houses set on fire. For some time past, extremist leaders from West Bengal or other parts of the country have been trying to organise Harijans into Naxalite or military bands and urging them to take to

¹*Ibid* , pp. 204-11.

arms to resist exploitation. In Bhojpur, Kohtas, Aurangabad and Patna districts, Harijans guided by Naxalite leaders have been resorting to violence in protest against exploitation. The militants have been attracting publicity because of their violent activities, but they form a microscopic minority of the Harijan population in the state. The majority of the Harijans in Bihar appear to be resigned to their lot.¹

A Dalit leader of the North and Congress (I) member of Rajya Sabha said : "Actually the caste Hindus should never have given the Scheduled Castes the right to vote, or the right to education....The Harijans would have then lived subserviently. And that would have kept the Caste Hindus happy. But now the Brahmin and the Chamar are on the same plane. They cannot be treated differently and if any attempt is made to do so, there is a danger of the country breaking up.' If we are going to be humiliated we shall not tolerate it ; we shall then ask for a separate State," he declared. "After 30 years, we are still made to lead a segregated life in the villages, drawing water from separate wells. being looked down upon, being attacked and massacred at the slightest provocation. What has the country achieved ?"²

Caste and Job Politics. It was the manifest injustice of the job reservation scheme which sparked off in 1978-79 rioting in Bihar. That violence should have flared in Bihar was not at all surprising, for outside a few industrial pockets, it is the most backward State in the country. Government jobs, therefore, form a larger proportion of the jobs available in the "modern sector" than in States like Maharashtra where it is industry that sets the pace. 'What is more important, Bihar has always been a cockpit of caste politics. Not only is the number of castes very large but, unlike the Marathas in Maharashtra, no single caste or group of castes enjoys a clear numerical dominance in the State. It is hardly surprising that battle lines have been drawn and students from the backward classes, who were singing the praises of Jayaprakash Narayan only a few months ago, are now burning all books on him that they can lay their hands on.'³

Reservations for "backward" groups are another matter and more justifiably provoke educated middle class ire. These quotas do tend to be filled to the detriment of scores of other better-qualified

¹Janak Singh, 'The Plight of Harijans in Bihar', Times of India, 5 May, 1980.

²Youth Times, 1-15 October, 1978, p. 13.

³Prem Shankar Jha 'Jati and Jobs', Illustrated Weekly, 2 April, 1978.

competitors. They must be abolished since the weighty social, historical and economic reasons, which justify reservations (but not indefinitely) for Harijans and tribals, do not exist in the case of "backward" groups.¹

The National Democratic Party (NDP) spear-headed a movement of the "forward" communities in Kerala for the reservation of jobs in government services and seats in educational institutions on the basis of economic backwardness. According to the protagonists of the movement, the existing caste based system of reservations for the backward classes and Harijans is a violation of the constitutional guarantee of equal opportunities for all. Thus the Nairs ventilated their grievances through the NDP, the political wing of the Nair Service Society (NSS). In Tamil Nadu, a broad based peaceful agitation by the "forward" classes against the "haves of caste-based reservation" has been organised under the leadership of the Tamil Nadu Oppressed People's Movement (O P M) founded only four years before.

In Gujarat, violence, arson and rioting early in 1981 arising out of the student agitation in some of the main cities and towns of the State assumed the proportions of a full-scale caste warfare. For over a month medical students had been protesting against the policy of reserving seats in post-graduate medical courses for Harijans and tribal aspirants. It is possible that the caste conflict in Gujarat could have been prevented from assuming the ugly proportions it did were it not for multiple rivalries within the Congress(I) and the diverse, often conflicting, pressure on the State Chief Minister. From the other side of the political fence, the BJP made things difficult by fanning the anti-Harijan sentiment. Atal Bihari Vajpayee reportedly remonstrated with local leaders and advised them not to alienate the Harijans completely. But he was curtly told that since the Harijans were "lost" to Mrs. Gandhi anyhow, the BJP should try to win over the caste Hindus at least, rather than allow them to rally round the Lok Dal leader.

Evidently the caste polarisation in Gujarat could not be allowed to remain at a fevered pitch without risking a major upheaval in the State's body politics. But the trouble was that on both sides of the dividing line even those who were aware of the danger ahead seemed unwilling or unable to do anything about it. On the contrary a lot is being said and done to exacerbate feelings. For instance, a federation of students, bank employees, traders, doctors, lawyers and others, cut-

¹A.S. Abraham, 'Limits to Reservations', Times of India, 19 September, 1980.

ting across party lines, had been formed to "renew" the struggle against reservations and to "carry it through this time". It was also noteworthy that the associations and unions of the Gujarat police, the quarter million state government and panchayat employees and the Central officials and workers posted to that state had all passed resolutions demanding that the reservations be scrapped completely.¹

¹Inder Malhotra, 'Gujarat's Caste Conflict' I and II, *Times of India*, 7 and 8 May, 1981.

National Integration and Nation Building

I. The Problem

The Indian states were persuaded to join the Indian Union, as a result of which British India and Indian states were integrated. Thus we started with physical integration of the country under the republican Constitution of India. The only problem that was upper-most in the minds of leaders and thinking people was that of building a new India. But as we have seen in the foregoing four Chapters, the anti-national forces of linguism, regionalism, casteism and communalism now constitute major threats to Indian unity and national integration. The evil of communalism has not died and the evil forces of linguism, regionalism and casteism have joined with communalism to undo much of what has been achieved.

The problem of nation-building has assumed several dimensions—viz., national integration, national reconstruction, political and economic development and formation of national character. It has been rightly observed that nation-building was not much of a problem in the colonial world. There was broad consensus among national leadership on one point: "Liberation from foreign yoke" and hence diverse tribal, ethnic, communal and caste groups in a colony were united in one broad mainstream of national movement against foreign imperialism. But once the process of decolonization began, national leaders in the third world countries were faced with a serious problem of building a nation in the face of divisive and fissiparous internal forces with their base centring around parochial loyalties. It was either out of fear on the part of the parochial groups of being submerged in a larger nation, or out of pride in their own group, or because of the aspiration of some leaders to political power on the strength of parochial loyalties, demands were put forth for regional autonomy, and either explicitly or implicitly for the secession of areas

where a particular religious, linguistic, ethnic or tribal group was concentrated.

Protest, dissent and mass movements have been dominating the political arena of post-independent India. While intra-system movements (such as for linguistic reorganisation of states) are aimed at gaining concessions and reforms from Central Government within the prevailing political system, the anti-system movements (such as naxalite movement and secessionist movements for separate sovereign Nagaland or Mizoram or Sikh Home-land) are aimed at the destruction of existing political system. Regionalism, linguism and such other trends of separation are menacingly at work in the country. 'These questions of regionalism and language have been so much in the forefront of Indian politics and are so readily related to events in India's recent political history that it is sometimes difficult to realise that they do not constitute the whole of the problem of national integration. Social divisions are as troubling as the territorial.'¹

Incidents of communal and caste violence have been increasing in the country since 1978. 'A militant challenge to national solidarity has manifested itself in the most sensitive region of the north-east. India's territorial situation presents a continuing problem of integration, a greater incidence of sub-regional mobilization within individual states (rather than secessionist movements against the centre), the development of specially tailored politics to deal with specific situations, and the national strains emanating from increasing participation of the periphery in the central symbols and institutions of politics.'² The spread of violence based on religion caste and regional considerations together with the erosion of faith in the normal processes of secularity and justice make a national integration movement imperative.

II. National Integration Through the National Integration Council

The idea of a national integration council was conceived in 1961 in a different set of conditions. Even though the main objectives of discouraging communal ill-will, caste conflicts and regional animosities to wean away people from the path of violence were relevant even then, the challenge is much bigger today. The divisive forces are much more defiant today than in 1961 or in 1968 when the national integration council was revived. The situation in 1961 when Prime Minister

¹W.H. Morris-Jones, *The Government and Politics of India*, p. 104.

²Rajni Kothari, *Politics in India*, p. 333.

Nehru called the first conference for national integration is best described in his own words. Welcoming the participants he said : "We ventured to ask you to attend the conference not because some sudden catastrophe was overhanging us or the country was on the verge of disintegration and that it should be pulled together because we thought that at this moment in our history we should lay some stress on this problem and turn the people's minds in a particular direction."

On the invitation of the Prime Minister, as many as 131 distinguished scholars, writers, poets, scientists, members of Parliament, Vice-Chancellors, leaders of political parties and ministers had met at Vigyan Bhavan from 28 September to 1 October, 1961 to consider the best methods of safeguarding India's unity and bringing about national integration. Inaugurating the Conference, Vice-President Radhakrishnan had said ; 'We have to make this country a truly civilised and democratic state'. Speaking on the second day, Acharya Kripalani had observed : 'If we, the political leaders, get integrated, the country will get integrated in no time... Give our people a purpose to live for, work for and die for'. The Conference had appointed the NIC, consisting of the Prime Minister as its chairman, the Union Home Minister, Chief Ministers of States, Chairman of the University Grants Commission, 2 educationists, the Commissioners for Linguistic Minorities and Scheduled Castes, and 7 other prominent men and women as members (total 37).

The Conference also adopted the following code of conduct for the guidance and immediate adoption by political parties during the election campaign : (i) No party should indulge in any activity which would aggravate existing differences and create mutual hatred or cause tension between different castes and communities, religions or linguistic. (ii) Every political party in any agitation it may launch in respect of any matter should ensure there is no incitement to violence. (iii) Political parties should not resort to agitation for seeking redress against any grievances relating to communal, caste, regional or linguistic issues, which is likely to disturb peace or to create bitterness. (iv) Political parties should desist from creating obstructions in or breaking up meetings, processions, etc. organized by other parties. (v) The Government, while taking measures to maintain law and order, should take care not to impose undue restrictions on civil liberties. (vi) Political power, at any level, should not be used for furthering the personal interests of members of one's own party or to harm the interests of members of other parties.¹

¹Indian Affairs Record, October 1961, pp. 181-82.

In November 1976, a working group of the NIC recommended the following 7-point action plan for national cohesion : ending the hold of obscurantist and extremist elements over sections of population ; the growth of positive elements of modernity in all spheres of life should be fostered ; any suspicions and prejudices about the minority communities should go and the process of national integration should be encouraged ; clannishness should be countered ; there should be free mixing of children belonging to various professions and faiths ; and forces which bind faiths must be highlighted through mass media.¹

In 1977, the Janata Government constituted a committee under the chairmanship of Jagjivan Ram to review the situation and to examine if it was necessary to revive the NIC. In the meantime the problem had ceased to be confined to the major religious communities and even castes. Regional and parochial loyalties posed an equally serious threat. The Government also convened a conference which called upon political parties, voluntary organisations, the press and leaders of opinion to discourage communal hatred and regional differences "by active and energetic propagation of the principles of tolerance and harmony and by mobilising constructive forces of society in the cause of national unity and solidarity."

The Government on 1 September 1980, revived and reconstituted the NIC under the Chairmanship of the Prime Minister, Smt. Indira Gandhi. The 53-member Council comprised of Union Ministers, Chief Ministers and Governors of the States, representatives of major political parties, minority groups and eminent educationalists. The Council was intended to help fight communalism, casteism, regionalism, linguism and other forms of parochialism, prevailing in the country and suggest ways and means to fight these evils. The reconstituted NIC on 12 November gave a call for consolidation of secular forces and decided to set up a standing committee to keep a watch on the activities of communal and divisive forces threatening to destroy the country's unity. The Prime Minister, Smt. Indira Gandhi, who was also the Chairman of the Council, announced two more committees—one to make an indepth study of the causes of frequent communal flare-ups and the other to devise plans to reorient the educational system so as to make it a potent instrument for promoting secularism and national unity.²

¹Times of India, 28 Nov., 1967.

²Conparlist, September and November, 1980.

Until its recent reconstitution, the National Integration Council, set up in 1961, had been for most of the time a moribund body. Mrs Gandhi's government must be commended for it. The North-East, Moradabad, Assam, caste tensions, all are manifestly troublesome sources of crisis. On dealing with these, the government can be accused of trying to parcel out the burden of its responsibility when the going is getting rough. But if this is so, then it can't simultaneously be accused of ignoring or riding roughshod over the opposition. Moreover, communal riots or caste conflicts are, or should be, non-partisan concerns. In fact, one important reason of their recurrence is political partisanship of the narrowest kind. This point was made at the meeting more than once. The best way to counter it is through a national consensus of sorts. Building such a consensus to the extent this is possible is what the council is seeking or ought to seek.

The council has come up with an eight-point plan to prevent and contain communal strife and prejudice. It also set up three bodies, including a standing committee, to address the root causes of communalism, casteism and other divisive forces and to monitor the progress in eliminating them. 'At least on paper, these are good moves. But they must, in the end, look good on the ground. A lot of hard and sustained work is involved in, for instance, getting the kind of school textbooks written that foster secular and progressive rather than feudal or dogmatic attitudes in children. And when it comes to much more ambitious objectives like shaping the education system to mould a new breed of Indians, the task is so enormous as to seem forbidding. Yet, change must begin in small ways and the panels must ensure that follow-up action, however, limited to start with, is continuously taken until there is a visible accretion of benefits. The integration of a bewilderingly plural society such as ours is not a matter that should occupy us only when riots and violence remind us bloodily of how far we are from being integrated. It is, and should be, a regular, sustained concern.'¹

III. Other Suggestions for National Integration

J.P. on Nationalism. The substance of a 'nation' is "national consciousness" or "national sentiment", without a sufficient measure of which there is no nation. When we speak of national integration, we mean precisely the development of this very consciousness of

¹*Towards Integration*, editorial, Times of India, 15 Nov., 1980.

nationality. But this consciousness is an elusive thing ; and it is difficult to generalise and lay down prescriptions on how to develop national consciousness. The following are its good aspects : (1) it is a uniting or integrating force ; tribalism and ruralism are merged into nationalism ; (2) there is growth of civil society inside the nation; and (3) there is also growth of equality, economic, social and political.¹

'In the long struggle for national freedom there emerged a clear enough concept of a single, composite, non-sectarian Indian nationhood. But the fact is that there also emerged at the close of the century a rival concept based on Mohammed Ali Jinnah's two nation theory—a separate Hindu nation and separate Muslim nation resulting in the division of the country and the establishment of an Islamic state—clouded the freedom movement's concept.' In order to fulfil the task ahead, J.P. gave the following suggestions for bringing about communal harmony.

'Hindus and Muslims have lived together side by side as neighbours in town and village for centuries. Yet there is in each of them an almost complete ignorance of the religion of the other. Ignorance is the mother of every kind of prejudice and of much mischief. It is a serious defect of Indian education that members of one community do not know the beliefs and practices of others with whom they live. To correct this a deliberate effort should be made through our schools to create better understanding in this respect. If the young come to understand one another a firm foundation would have been laid of communal harmony and national integration. Appropriate literature should be produced for the purpose. Specific efforts should be made to bring together the youth of different communities through common hostels, work camps, joint relief work, excursions, sports, cultural programmes, such as dramas, shows, etc. At the people's level I would suggest promotion of joint participation in festivals, social gatherings, community activities and similar popular functions.'³

Multi-national Character of India and Economic Equality Vital for National Integration. Kerala's former Chief Minister, E.K. Nayanar, in an exclusive interview to the Times of India, in November 1980, called for an early end to the ritual character of the N.I.C. by developing it into a powerful and functioning mechanism for national integrity. The council must be fully representative of all political

¹Jaya Prakash Narayan, *Nation-Building in India*, ed. by Brahmanand, pp. 400-05.

²*Ibid.*, p. 417.

³*Ibid.*, p. 198.

parties, trade unions, peasants, women, youth and writers. It should become the forum for national unity defending democracy, secularism, and freedom, he felt.

Nayanar came out strongly against the "distintegrating tendencies" in the country which, he said, were only attempts to take away even the minimum autonomy of the states. One such tendency was the mixing of religion with politics, he said and substantiated it by citing the instance where the Union Minister for communication, C.M. Stephen, was listed among the ministers attending the special "yagna" in the Laxmi Narayana temple in New Delhi. This was a clear indication of how the present regime was exploiting religion for political gains, he said.

According to him, decentralisation of power, democratisation of administration and secularisation of public alone would help national integration. India might be termed a nation of nations. Once the multi-national character of the country was unreservedly accepted, autonomy of the various nationalities would not automatically follow. Only such an arrangement could guarantee the economic and cultural development of the various nationalities, Nayanar observed.¹

Towards National Identity. The very process of nation-building generates forces and releases potentialities that one cannot cope with a static framework. In the dynamic dialectical perspective the very success of a course of action leads to the rise of contrary trends as its antithesis. Ultimately their mutual inter-action should lead to the formation of a higher level of reality. 'In applying the dynamic framework of analysis to contemporary developments in India, the basic question in national integration becomes one of establishing the qualitative priority. Is nationalism the basic reality and dynamic core of the political developments in the present period? Or do regional (or other) entities constitute the basic reality and dynamic core of the political developments in the present period? Or do regional (or other) entities constitute the basic reality for which national integration forms the background or super-structure? This seems to be the underlying issue in the regional movements, fissiparous tendencies, or groups that assert their separate religious identity. The point is that if national identity is the primary qualitative reality, then regional or sectarian movements and tendencies need not be threatening or disintegrative.'

¹K.C. John, 'Economic Equality Vital for Integration,' Times of India, 25 Nov., 1980.

In the U. S. S. R. the problem of distinctive ethnic identity of the different communities was pre-empted by its calling itself a multinational state. What binds the different communities in the Soviet Union together is not nationalism but the ideology of communism. At least at the theoretical level the assertion of national identity of different groups, such as the Uzbeks or the Georgians, in no way threatens the sovereign power of the Soviet state. In fact, the U.S.S.R. was intended to be the model, indeed the core of a world-wide federation comprising different nations all of whom would accept the supra-national ideology of communism. The dream has not come true and the Soviet experiment remains incomplete.¹

Political Development and Integration. Political development requires a rational ordering of goals and a conscious direction of the instruments fashioned for their achievement. A properly constituted national political authority is essential for the ordering, promotion and achievement of such goals. The stronger the foundation of the national political community the greater will be the effectiveness of the directing authority. 'The idea of *nation-building* as an architectural enterprise appears to overemphasize the role of deliberative design and the freedom of the political architects in impressing this design on social materials. It neglects the contributions of organismic evolution to the formation and growth of nations... Such a concept of national development puts a premium on the treatment of the nation as a dynamic process of integrating a plurality of social groups into a common framework of identity and loyalty structured in a political community.'

Most studies of political integration have concentrated on the problems of reducing cleavage, discord, and parochial loyalties facing the new states. 'The burden of these studies is that the way to integration lies through forcible subordination of the parochial groups under authoritarian rule. For example, Rupert Emerson suggests that the achievement of ordered societies in the West "was in good part the product of the firm authoritarian rule which bridged the transition from the Middle Ages to the contemporary world." Accordingly he states that the prime requirement of the new states is not for more freedoms but for discipline; not for opposition but for national consolidation and in countries with tribal, racial, or religious hostilities he claims "the essential need is strong and united management." According to Apter, cultural strain creates a problem for the leader-

¹Surindar Suri, 'Towards National Identity', Times of India, 13 April, 1982.

ship groups of the new nations. Their political leaders are rebels against tradition. Their goals of progress require social mobilization, which in turn requires an organized revolution that offends the natural conservation of the public. He concludes that "autocracy is thus intrinsic to development situation in which political entrepreneurship is the source of change and government its director."¹

Political Socialization. Coleman in his "Education and Political Development" lists three functions of a political system which have a clear relationship with education. These are : (1) Political socialisation, (2) Political recruitment, and (3) Political integration. As Massialas in his book puts it : "Education has the potential to influence the political system either from the outside as the generator of support (through the desired socialisation) and demands (through articulation of opinions, expectations, etc.) or from within, by operating as a sub-system within the larger political system. In either case, the potential to influence is significant but is likely also that it may not be fully exerted." Indeed the concept of citizenship-education i.e. the relation between education, state and government was not outside the awareness of philosophers, statesmen and political scientists of the past. But their writings provide only a lean antecedent to the study of the relationship between educational and political systems. Almond and Verba's "*Civic Culture*," inspired by Charles E. Merriam's "*The Making of Citizens : A Comparative Study of Methods of Civil Training*" gives the relationship between politics and education a crucial place, labelling education as the key to modernisation and political development.

Education implies the capacity to learn and to organise learning in a symbolic form; the communication of learning and action on the basis of learning and knowledge. The last two functions have a direct bearing on any political system particularly in the political socialisation of the individual and in the recruitment of the political elite. Viewed in a wider perspective, education is the source of all culture and civilisation including the political culture and institutions of any society. A dynamic, national and futuristic educational policy of a country in terms of a living interaction between the values of political system and the needs of development on the one hand and educational system on the other is the *sine qua non* of a developing nation. India's educational system is, however, still a legacy of the colonial days and consequently a divorcing of the educational system from the value-demands of the political system is still in vogue. Education has to be :

¹Jyotin Jra Das Gupta, *Language Conflict and National Development*, pp. 8.

(a) value-conscious, (b) goal-based, and (c) development oriented. No less important is the commitment on the part of the teaching community to the destiny of the country and its nation-building process. Training programmes emphasizing attitude-building are likely to go a long way in helping the teaching community to develop a positive outlook and to become a living and not a mechanical participant in the teaching process.

The influence of politics on education is writ large in the provisions of the Constitution relating to education and in the rules and laws framed from time to time to govern educational issues. Linkage between the educational and political system in India through the government powers of subsidising funds, of nominating members to the legislative and executive bodies of the universities is well-known. Apart from the role of education in generating the capacity, equality and integration of a political system, its wide-spread dissemination has helped remove the persistence of collective inferiority and has rendered the attainment of self-confident nationhood—such a difficult task. In short, educational system is the most important instrument of political socialization, but its potentialities have yet to be fully understood and put into practice. As already pointed out, the ideology of communism has succeeded in building communist states and nations—the USSR being a nation of nations. India, too, is a nation of sub-nations. The themes of political socialization in India should be : national unity, equality, secularism and democratic socialism. The Union and States Governments, political leaders and parties, teachers in all educational institutions and all other thinking people should actively promote and work for the attainment of these goals. Stern measures should also be devised to enforce discipline in this respect and curb all divisive forces.

IV. Nation-Building

After considering the various models of nation-building/development, we have to decide what steps should be taken in our country for nation-building. But before we are able to do that we should keep these points in mind : First, nation-building is much wider or more comprehensive than development—both political and economic taken together. Second, it is different from state-building. Third, national integration is one of the most important or rather the most important aspect/element of nation-building. Nation-building, in our view, includes economic and political development, state-building i.e.

making the state strong in its defence, national integration and formation of character—individual as well as national.

‘Successful programmes of economic development can be a valuable aid to nation-building. Imaginative steps to meet the minimum needs of the masses—especially those below the poverty line—followed by programmes that promise visible improvements in the quality of life in the foreseeable future can successfully preempt many of the early manifestations of sub-nationalism and local and regional dissidence. This necessitates planning with a vision and implementation with a degree of resoluteness. To be successful the planning and implementation processes should be based on an adequate comprehension of the social reality and should represent a creative response to it.’¹

The above observation is correct, but the writer, like many others, equates nation-building with national cohesion as he says in the second article : ‘To conclude, nation-building involves redefinition of sub-national identities and the emergence of a larger national identity. In the process, the smaller identities need not be obliterated, in fact they can even be strengthened. What is necessary is to build inter-penetrating linkages between them so that the larger national identity reflects their inter-dependence. This task is by no means easy. When centuries-old walls of prejudice have to be demolished, irritants and tensions removed, and sources of conflict replaced by patterns of cooperation, one must move with caution and courage. To bring about social cohesion, remedial action in respect of existing cleavages is essential. More than anything else, the collectivity has to be invested with a new sense of destiny, the realisation of which will require concerted action. This implies working on the minds of men alongside of other social action.’²

We have already discussed the problem of national integration. However, the following observations deserve to be noted : ‘What is needed are interrelated images of India as a nation as well as a multi-cultural and multi-ethnic society in which each of the regional and linguistic or religious identities continues to develop, thereby enriching the whole society. The important point is that the image of the goal of society as a whole should, in terms of its meaning as well as in time-scale, transcend the separate identities of the groups. The

¹S.C. Dube, ‘Problems of National-Building-I-Not by Economic Development Alone’, Times of India, 30 June, 1980.

²S.C. Dube, ‘II—The Problems of Nation-Building’, Times of India, 1 July, 1980.

ethnic identities already exist. The dynamic "national" integration that is yet to be operationalised, and accepted is of a different qualitative order. In other words, the overall Indian identity as well as national goals must interrelate, not mechanically but dialectically, with the specific ethnic development identities, and aspirations of diverse social groups.

'This basic fact should be clear to leaders of the Assamese agitation. Conversely, the movement is a by-product of the growing national development a fact to be kept in mind by those who represent and wield the national authority. A solution of the conflict is possible only by a dynamic and qualitatively out-reaching development of national development as well as the growth of regional identity. The current dead-lock persists mainly because the two sides are caught in the framework of static thinking. It should be made clear to all proponents of separatism in India that they are as much the carriers of national goals as are those who make nationalism their primary commitment. National solutions to regional demands have to arise in the minds and hearts of leaders of the regional movements as much as in those of the national leadership.'¹

Various aspects of economic development have been discussed in Chapter 17, entitled 'Economic Planning.' As regards political development it would suffice to say here that the country has developed its political institutions and administrative machinery, in accordance with the political system adopted by us. We will add more about this aspect and the achievements as well as failures in the field of economic and political development in Chapter 29, entitled 'Retrospect and Prospect'. So far as state-building is concerned, the country has been able to develop its military strength in a measure considered enough for its defence and security. Defence industries and potential for future growth have also been developed as required.

Thus the foregoing aspects of nation-building have received due consideration. However, the question of adopting a suitable model, yet remains to be considered. We would like to assert that none of the prevailing models can singly serve the purpose of nation-building in our country. As in the case of our political and economic systems, we have tried to combine democracy (parliamentary form) with socialism, and adopted the goal of 'democratic socialism', so for the pur-

¹Surindar Suri, 'Towards National Identity-II', Times of India, 14 April, 1982.

pose of nation-building we have to adopt some particular model as a basis, but that will have to be supplemented by another. The country has adopted the inter-dependence model, in conformity with the social and economic conditions of the society. But since the desired objectives have not been achieved through it, we must enforce some of the features of the integration model. Divisive forces must be kept under firm control and all steps, including stern measures, should be taken to maintain the security and integrity of the country. There is much in the Arusha Declaration of Tanzania so far as the adoption of a common goal and recruitment of leaders is concerned. The ideology of communism, put into practice, has enabled the Soviet Union, China and several other countries of Eastern Europe to build new societies and bring about national solidarity. The pace of economic development, too, has been more rapid in those countries than that of India, because their political and economic system is different from that of India. In a democracy, economic progress is bound to be slow. However, we have made rapid strides in the field of economic and political development.

The Indian model, according to Rajni Kothari, is indeed peculiar and in some ways unprecedented. On the achievement of independence and even before that, the major task that India faced was vastly different from the tasks faced by other countries. National integrity did not form the background when India entered the stage of independent nationhood. After independence, it had four major tasks : national integration, economic growth, social justice and political democracy. Gandhiji was without doubt the builder of the Indian nation ; and his main achievement was to shift the basis of the anti-colonial movement from class to nation. The strategy evolved by him involved three elements : symbol manipulation aimed at making the movement relevant to the people as a whole ; action programmes designed to provide social significance to politics ; and organizational drive calculated to provide a lasting structure of affiliation and allegiance.¹

He 'rejected the dichotomy between social and political work and stressed that the only means of legitimizing the political struggle and mobilising the masses for it was by making it salient to the concerns and conflicts of day-to-day existence ... Besides penetrating the country with a programme of action and a powerful symbolism that produced a new consciousness, Gandhi gave to the move-

¹Rajni Kothari, *op. cit.*, pp. 193-97.

ment a strong institutional structure which consolidated its legitimacy and representational character.' So far as state-building is concerned, for twenty years after independence the Indian leadership worked on three courses of action simultaneously—consolidating the new state on the basis of the integration of diverse components internally and maintaining the autonomy of the new state externally building the democratic framework based on adult franchise and elections, and maintaining a modest but continuous level of economic development through planning at various levels.¹ But it suffered from one major flaw, which has now become the central issue in its functioning—neglect of distributive justice. In other words, we may say that the ideals of democracy and socialism have worked to a large extent, but the failure lies on the front of actual practice, i.e. we have not been able to build a socialist society. A matter of serious concern is the widening gulf between the rich and the poor and increasing unemployment, particularly among the educated people.

Thus, the process of nation-building has gone on satisfactorily, except in two respects—one, the lack of distributive justice and the other steep decline in the character of the people—both individual and public. We would simply mention some of the main weaknesses as we perceive them. First, widespread lack of integrity, generally described as rampant corruption, which is eating at the very vitals of the nation. This aspect shall be discussed in the last chapter. Second, there is great divergence between professed words and actual practice. Most of our leaders in different fields of society, politics, government, civil services, business, learned professions and education usually talk of high ideals and noble things, but their actual behaviour is far below their noble professions. The result is that the common people are no longer inspired by their speeches and writings. Moreover, the evil has spread even among the masses. Third, selfish and group (faction or party) interests have taken the place of sacrifice for a higher cause or larger interest. Consequently, virtues associated with individual and public character are fast disappearing and public life in the country is becoming ignoble and dirty. Material progress is necessary and good, but it is utterly inadequate so far as nation-building is concerned. Leaders of the nation should first reform themselves and set their example before others. They should also sit together and devise measures for stopping the rot and improving the character of the people.

¹*Ibid.*, pp. 202 and 214-16.

Public Opinion and Political Communication

I. Public Opinion

Introduction. To Rousek, 'public opinion is in the nature of a consensus arrived at on the basis of predominating cross-currents of views that prevail at a given time or place.... It is a relatively homogeneous expression of preference by members of a group concerning issues which though debatable, concern the group as a whole.' However, it is necessary to distinguish between true public opinion and false public opinion. In modern society a great deal of what passes for public opinion is manufactured under highly artificial conditions. It is the opinion shaped and moulded by pressure groups and vested interests of one kind or another.¹

Throughout the world, public opinion is a potent political force, one that is capable of arousing responses varying from admiration and respect to contempt and fear. Politicians court it; statesmen appeal to it; philosophers extol or condemn it; merchants cater to it; military leaders fear it; sociologists analyze it; statisticians measure it; and law-makers try to make it sovereign. It is imperative to study opinions held by various categories of persons, because such opinions offer a basis for predicting certain patterns of future behaviour. Relatedly, note must be taken of the huge sums of money that are spent in attempts to influence mass opinion.

'Intensified concern with public opinion may be attributed to several factors: (1) the increasing involvement of citizens in political decision-making process through such democratic mechanisms as voting and political parties; (2) higher levels of education and corresponding demands for a greater role in public affairs; (3) dramatic improvements in the communications process, such as television and commercial satellites, that bring events to the attention of various

¹E. Ashirvatham, *Political Theory*, pp. 387-88.

publics almost instantaneously ; (4) international propaganda programme that pit various nations in competition with one another in pursuit of their respective foreign policy interests; and (5) the necessity felt by all regimes, democratic or otherwise, to produce public acceptance and support of governmental policies.¹

In a democratic state public policy is formulated in accordance with public opinion. Under a democracy, public opinion becomes an active propelling factor. The role of public opinion in a democracy is particularly important for two reasons. First, when free play of opinion is assured, the whole process acts as a check on the overgrowth of power. Democracy is distinguished from other forms of government by the fact that it is built on the assumption of diffusion of power rather than its concentration is on centre. Second, when law becomes a reflection of public opinion, it offers an easy solution to the problem of political obligation. The citizens obey the law as it rests on their will to obey. Thus the whole process of law-giver and the law making serves to obliterate the distinction between the law-giver and the law-receiver.

In the field of political dynamics, the significance of public opinion lies in its ability to influence government decisions. Opinions may be reflected in an election, a policy decision, or formal legislative enactment. Once it is accepted that opinion shall determine political action, the opinion conductors may be found in formal as well as informal agencies. The formal role is played by the government agencies like the legislative, executive, judicial and administrative organs, while the latter may be illustrated by the role of political parties and interest groups. In order that a segment of public opinion becomes politically articulate, it must considerably influence the power wielding organs. Well-organised, carefully ventilated opinions pass through diverse channels into the area of the state and move the machine of the government. But the underlying idea is that public opinion is always directed towards the attainment of public interest as distinguished from sectional advantages.

In our country, where communal and sectarian loyalties are still strong, the public opinion of a given group may often run counter to the well-being of the country as a whole. This means that in a particular country, instead of one public opinion on an important issue there may be several public opinions : local, provincial, linguistic, communal or sectarian, national and international. Hence, many enlightened people to-day believe that national/inter-

¹Abcarian and Masannat, *Contemporary Political System*, pp. 121-24.

national loyalties should be given a higher place and the lesser loyalties should be integrated into them so long as they are not diametrically opposed to them. Integration is the most important word in this connection. If a lesser loyalty or lesser public opinion cannot be integrated, it should be rejected.

Organs (or Agencies) of Public Opinion. Without any discussion, we may simply mention them as follows :

- (i) Political parties, interest groups, etc.
- (ii) Public platforms, i.e. public meetings, seminars, lectures, etc.
- (iii) Press-newspapers and magazines.
- (iv) Educational institutions, academic associations, discussion groups.
- (v) Cinema, radio and television.
- (vi) Legislatures—publication of their proceedings and reports of committees.

In pre-independence India, the most important agency/organ of moulding public opinion was the press, i.e. the newspapers, both in English and in Indian languages. The alien government had imposed several restrictions on the freedom of the press. Even then the Indian press had played an admirable role in accelerating the process of formation of public opinion. Its role in voicing the grievances of the people against the repressive policies and measures of the government was very significant. It also acted as a deterrent to the official bureaucracy in adopting a high-handed policy at provincial and national levels. Thus by 1914 Indian public opinion had grown into an effective force. It had demonstrated its potency by the success it recorded over the various issues. The *Amrit Bazar Patrika* in April 1914 could claim with confidence that the Indian public opinion was an important factor in the country and its voice in the administration could not be ignored.¹

Another important organ was the public platform, which was a popular feature of those days. Public meetings attracted large audiences in the cities, particularly after the introduction of provincial autonomy and the microphones. Published reports of the debates and proceedings in the legislative chambers were widely read by the educated people. There were only a few organised interest groups and associations to play any significant part in the formation of public opinion. After 1920, radio broadcasting was introduced ; the

number of radio sets was very small and only an insignificant section of the people could listen to the broadcasts. The cinema was introduced in the thirties but it became a popular medium of entertainment and propaganda only after independence. At present the various mass-media (television etc.) have become very popular and are playing an important role in influencing the government as well as the people. The annual report of the registrar of newspapers for 1980 presented in the Lok Sabha on 9 March 1982 stated that the number of newspapers had risen from 15,814 in 1978 to 17,168 in 1979. Likewise the circulation of newspapers increased to more than 46 million copies, an increase of 13.7 per cent over 1978. The number of newspapers in 1979 had more than doubled since 1915 and the circulation had shot up by 100 per cent since 1962. Newspapers were published in 83 languages in 1979, apart from English and 15 other languages enumerated in the Eighth Schedule, they were published in 67 other languages. Hindi newspapers numerically constituted the largest group. They also maintained a lead with regard to circulation.¹

II. Political Communication

Communication is the transference of a thought content from one individual or a group of individuals to another individual/group. There is an organic relation between communication and society. It is difficult to conceive of a society without communication. Individuals in the society are interacting persons. Communication denotes a process that is both interactive and purposeful. It is a means for achieving mutual understanding. The invention of printing made it possible for single written message to reach many receivers and thus increased the potential effectiveness of a few individual communicators. With the invention of radio in the present century, it became possible to reach millions over the world with a single message. The microphone and the loudspeakers now enable the political leaders and the mass orators to speak to thousands of hearers at a public meeting.

The mass media in the present century has been completely transformed because of the technological developments. 'Mass communication is the technologically and institutionally based mass distribution of public messages in industrial societies.... These changes have brought about a transformation in the outlook of the people. They now know that the way of the life of the group in which they have been brought up is not the only way of life and there are other

¹Times of India 9 March 1982.

ways of living. Education and revolution in transportation and communication are also helping to unify the diverse group in the nation into one social organisation, with commonly shared ideals and values'.¹

Political Communication. Communication links together the parts of the system, so that demands are followed by policies. If we view communication as the dynamic movement of demands from one part of the political system to another, it follows that the study of the operation of communication extends far beyond the media of communication. The study of political communication raises the main question: What consequences follow from the general principle that the study of communication is truly the study of the dynamics of the political system.² Socialist and autocratic regimes are particularly concerned with government control of the mass media; the important newspaper in the USSR, Pravda, is published by the Central Committee of the CPSU, and there are state committees for radio, television and the cinema. The mass media are a means of party agitation and propaganda. But restriction of mass media competition in liberal democracies and the degree of government control may be more subtle.³

There are four important functions of mass media: (1) collection and distribution of information concerning the events which happen—the news in the newspaper; (2) the interpretation of the information and prescription for conduct in relation to these events—editorials, columnists' reactions, 'spotlight' on the AIR, etc; (3) transmission of the social heritage from one generation to the next; and (4) entertainment, i.e. communications are also intended for amusement. Another important social function of the mass media in the economic sphere is the giving of information regarding the market conditions and making advertisements. This is helpful in the development of economy.

The role of public opinion as well as of the mass media is very great in a democracy. The technological advances now make it possible for a leader to influence the thinking and behaviour of millions of people. Most of what people learn about political events and process comes in the form of reports compiled by individuals associated with the mass media and publicised through their technical facilities. Mass

¹B. Kuppuswamy, *Communication and Social Development*, p. 24.

²J. Blondel, *Introduction to Comparative Government* pp. 223-24.

³Alan R. Ball, *Modern Politics and Government*, pp. 133-34.

media may also serve as latent channels of communication among decision-makers and opinion leaders.

According to V. M. Sirsikar, political communication of all types is important for three kinds of voters : (1) those who have yet to make up their mind about the particular choice of a party and/or a candidate, (2) those who are on the margin of being politically involved, and (3) those who are cross pressured. He writes : 'A campaign is seen as a "feed-back mechanism"—a means of exchanging information so that the views of the office-holders and electors can be mutually adjusted to the advantage of the electorate. The discussion on campaign literature here has its relevance in the fact that it influences the more articulate and educated section of the voters. The publication and the subsequent distribution of the campaign literature has, of late, become an important medium of informing the voters regarding the party's programme and policy.¹

III. Media (of Communication) And Their Autonomy

Mass Media. Before the onset of TV technology the radio-broadcasts, besides providing entertainment, also catered for educational and informational programmes. In the changed context of the new economic programmes, radio would have to be made a more effective forum for discussion. New strategies and a new focus would be necessary to bring out issues of public concern so that there is a meaningful dialogue between the government and the people. Already certain steps have been taken in this direction and the message of the government is reaching the masses through special programmes for rural people, women and the youth. Recently, the technological advances in the field of communication have brought satellite TV programmes to the people sitting at remote and farflung villages. This has brought about a big revolution in the broadcast media, which now has a greater impact than any of the other media. These programmes are sure to go a long way in educating and informing the rural people on methods and techniques of improved cultivation, better health and sanitary awareness and bring about a national cohesion.

'In a country such as India, with its vast complexity of cultures, the task to produce such sentiment is monumental. Separated by languages, customs and distances we tend to lose ourselves in our own narrow milieu. This is where television becomes an effective commu-

¹V.M. Sirsikar, *Sovereigns Without Crowns*, p. 55.

nication link. Programmes beamed from a single point can be transmitted through satellite to every corner of the country.. and bring to every home the vastness of our heritage and evoke an involvement in the entire nation. This will help us to develop a sense of one-ness, a national character, which, as already mentioned, is an extremely important pre-requisite for national development.¹

Printed Media. 'In examining the role of the Press vis-a vis its function and responsibility towards administration as well as citizen, there can be no two opinions that they have a dual responsibility as reporter and critics. Like administration, they too have the public accountability and serve as trustees for the public interest....The role of administration and the press is complementary as both are supposed to work for the common weal'. If the administrative measures to implement the various programmes are to succeed, it is important for the citizens to look at the administration as a friend and a guide. 'For such a happy relationship to emerge, media constantly need to renew their appeal. Communication is thus an act of faith and sincerity. Properly used it can be a cohesive force binding together a political society, especially at a time when the political and economic system is subject to exceptional stresses and strains. The mass media of communication can be used to inspire as well as to inform, to move towards the creation of new ideals as well as the destruction of old ones.'²

Nayar Committee Recommendations. The 87 page White Paper presented to Parliament on 1 August 1977 explained how media were made to dance to the tune called by the rulers by a ruthless exercise of powers. The total control exercised by V.C. Shukla and his henchmen on all the media from 26 June 1975 to March 1977 was an integral part of the emergency plans. In accordance with its 'declared policies, the Janata Government set up a 12-member Committee on 1 April 1977 under the chairmanship of Kuldip Nayar. The report of the Committee was published on 2 August 1977. The Committee in its majority report referred to instances of political interference in the collection and dissemination of news by 'Samachar' with a view to 'managing or even fabricating news in the interest of a small group around the former Prime Minister. The Samachar management had become a 'closed door', making it possible to manipulate its functioning very easily. The responsibility for this 'gross professional

¹Satish Verma, 'TV' Role in Country's Growth', Indian Express, 1 Oct. 1982.

²V.C. Shukla, 'Role of Mass Media in Administration Citizen Relationship', I.J.P.A. July-Sep. 1975, pp. 289-299.

misdemeanour' would lie on the executive of the agency well as on its managing committee. We recommend that this should be investigated and responsibility fixed.'

The Committee emphasised that it favoured more than two news agencies and hoped that newspapers might come together to organise some more agencies. However, these other agencies, if and when constituted, should be restricted to domestic coverage, because the Committee hoped News India would one day become a first-class comprehensive world news agency and any duplication in the international field would only divide attention and resources. The committee recommended India's continued participation in the news agencies pool of non-aligned countries. However, it favoured a detailed examination of the way the pool's plan of action is being implemented. The results at that time were not commensurate with the expenditure being incurred, it said.

Verghese Committee Report. Another 11-member working group to study the question of converting Akashvani and Doordarshan into autonomous institutions was set up. It was headed by B.G. Verghese, a leading journalist. Its report was published on 9 March 1978. In its unanimous report, it suggested that the national broadcasting services should be vested exclusively in an independent, impartial and autonomous organisation—National Broadcast Trust (NBT). The organisation should be established by law to act as a trustee for the national interest and it should have a highly decentralised structure. At the apex of NBT, the working group suggested a board of trustees consisting of 12 persons, and not exceeding 21 persons. The Controller General of Broadcasting (CGB) heading the central executive board was conceived by the working group as a link between the trustees and the entire broadcasting organisation. He was to be ex-officio secretary to the board of trustees so as to provide an organic link between these two tiers. According to the report, there were then some 20 million radio receivers and 6,00,000 TV Sets. 'With population rising to, say 950 million by 2,000 A.D. and 'an end to destitution' and fuller employment, at least 80 to 90 per cent of all households should possess radios.' In a perspective study for 2,000 A.D., the report said there could be 160 to 180 million radio sets and between 12 and 18 million TV sets by the turn of the century.

Since India is a plural society and a union of states, central control over such powerful and expanding media has engendered political controversy in the past and could conceivably do so in the future. In the opinion of the working group, Akashvani and Door-

darshan combine in themselves the characteristics of the market place, newspaper, university, national extension agency and cultural academy. It recommended the establishment of a strong audience research division with limited staff and budget. The bill introduced in the Lok Sabha in May 1979 on autonomy for All India Radio and Doordarshan sought timorously to tread the middle ground between the existing set-up, under which the two media were official organs, and that proposed by the Verghese committee, which envisaged them as being two arms of a wholly autonomous national broadcast trust. As it stood the bill appeared to go some way towards freeing these media of official control, but it did not really go very far.¹ But whereas previous governments paid at least lip-service to the concept of autonomy for radio and TV, the present Government has rejected the very concept of autonomy.

IV. Freedom of Press

Freedom of press means in effect the freedom of the editor and none-else. While every citizen, except a government servant, has the fundamental right to the press to express his views, the editor has absolute discretion to publish, amend or reject them. Thus, the only citizens who have at least in theory, the maximum freedom of the press are the small number of editors among the millions of citizens. It is difficult to sympathise with the editor who loudly complains of the invasion of his freedom by the government but timely submits to the invasion of his freedom by subscribers, advertisers and proprietors. The former are on the whole much milder and presumably in public interest and are open to public view and public criticism, while the latter are secret and in the interest of private profit and often unconscionable to a degree.

Press Council. After the adoption of the Constitution, a Press Law Inquiry Committee was appointed to examine and report on the laws regulating the Press in India. On its recommendations all the then existing laws which were against the provisions of fundamental rights were repealed. A new Press (Objectionable Matters) Act was passed ; it was directed against encouragement to violence or sabotage and certain other grave offences and against the publication of scurrilous matter. The Act provides that if it is established to the satisfaction of the sessions judge that the requirements of the case will be

¹A.S. Abraham, '*Bill on Media Autonomy : Janata's Ambivalent Policy*', Times of India, 22 May 1979.

met by a warning, he may, instead of demanding security, record such a warning. In extreme cases, there cannot be any higher punishment than forfeiture of security, and cancellation of declaration and registration. A Press Council was constituted in 1966 with two objectives : first, the preservation of the freedom of Press and second, section 14 of the Act enabled the Council to exercise the power of civil court both in dealing with cases in the performance of its 'function' and for holding an inquiry. Freedom of the Press may be endangered and put in jeopardy in various ways, like a deliberate attempt by advertisers—private or institutional, to influence the editorial policy of a newspaper. The threats to the freedom of the press might arise from various sources—private institutions or governments, and the competence of the Council to investigate matters relating to such threats really amounted to striking out the operative provisions of the Act as ineffective.

The Emergency and the Press Council Act, 1978. The Government of India promulgated three ordinances on 9 December 1975 (during the emergency). These were promulgated to prohibit publication of objectionable matter with immediate effect and withdraw the immunity conferred on the Press by the Parliamentary Proceedings (Protection of Publication) Act of 1956. However, the Press Council was reconstituted on 3 April 1977. It was authorised to formulate professional code of ethics. The Press Council Act, 1978 was expected to achieve the objectives to preserve the freedom of the Press and to maintain and improve the standard of newspapers and news agencies in India. But the Act contained hardly anything designed to secure press freedom against pressure and encroachment by interest groups, trade unions, political parties, advertisers and government.¹

In the case of publications, the Press Council wants the 1978 Press Council Act to be amended to include a provision authorising it to recommend to central and state governments and departments as well as public sector undertakings that they stop advertisements for up to six months to "repeated" offenders. The Council also wants to be able to recommend further punishment like freezing an offending publication's newsprint quota at the same level or upto two years and suspending its concessional postage registration for upto one year. In the case of journalists, including editors, it seeks the power to have accreditation facilities taken away from them for upto six months. But while the Council is to come down hard on offending publications or journalists, it ought to do so as well on various authorities, govern-

¹*Times of India*, editorial, 4 Sep. 1978.

ments, advertisers, employers' bodies, trade unions and political parties, which seek to pressurise or curb the press.

Press Commission. The first Press Commission was appointed in 1950, it submitted its report in 1954. A second Press Commission was appointed by the Janata Government. It was reconstituted by the Congress Government in January 1980. The reconstituted Press Commission submitted its report to the Government on 3 April 1982, making far-reaching recommendations for the development of the Press in the country. The Commission has proposed a newspaper development commission to help healthy growth of Indian language, local and other small and medium newspapers and publications. The Commission also envisages a new information order in the country where the citizens will have access to government information, newspaper will be delinked from other interests, editors will have a greater say in the running of newspapers, readers will get more news from their papers and the nation will depend less on foreign news agencies for information on happenings abroad.

The Commission is for vesting in the editor the ultimate responsibility for the production of a newspaper. It proposes statutory "interposition" of a board of trustees between the management of a large daily newspaper and to appoint an editor of his choice provided the latter was a man of known ability and integrity with sufficient authority to conduct the newspaper in public interest. The proposed board of trustees appointed by the management with the approval of the chairman of the Press Council and the Chief Justice of India or the Chief Justice of the high court—would ensure implementation of the newspaper policy and umpire disputes between the editor and the management.¹

By proposing a newspaper development commission (NDC), financed by a newsprint cess and an advertisements tax, the Second Press Commission has come up with a good idea to ensure that local and minority (in the non-communal sense) interests find expression. By helping indirectly to finance them, the general press would be helping to draw attention to areas of social change that would otherwise suffer from ignorance and benign neglect, official and public. But just when the press is rejuvenating itself, the majority on the Press Commission wants to take away from it, especially some 32 big papers with circulations of over 100,000, the one thing that enables it to be such an effective gadfly, its financial self-sufficiency. The

¹*Times of India*, 4 April 1982.

majority proposes to dispossess the present owners of publications with the highest circulations and the greatest clout by preventing anyone with business interests other than newspaper from having more than a peripheral shareholding in them. It wants to fix the proportion of advertising to news by law to ensure that the latter predominates. It wants to force them by law to raise their price when they offer more pages.¹

Editors' Guild. The Editors' Guild of India felt gravely concerned over the official move to deny newsprint to the so-called erring newspapers. Newsprint has been used as an instrument of pressure on the press even in the past. Quotas have been arbitrarily cut or increased ; and on account of its monopoly control over the import and distribution of this essential raw material the government decides the rate at which a newspaper is allowed to grow. 'Although the proposal is fraught with the gravest dangers and cuts at the very roots of the freedom of the press, it must be vehemently opposed not merely by the journalistic profession but also by all those interested in preserving the freedom of speech and expression in the country. It is regrettable that the Press Council, appointed to be a protector of the press and its standards, should have become party to endorsing this ill-conceived and dangerous move. If any newspaper is guilty of any offence actionable under the law, there are established procedures for proceeding against it. To add to the existing penalties the denial of newsprint smacks of a hostile attitude towards the press. The government should drop its pernicious proposal without further ado.'² The Press Guild in January 1982, also called for an amendment to the Constitution to include freedom of the press in the fundamental rights as also amendment to the Official Secret Act so that "legitimate journalistic activity in procuring and publishing news is excluded from its purview."

Smt. Gandhi's distrust for monopoly press can be understood from her own words : "The government has no intention of limiting or abridging the freedom of the press. But the government is determined to correct the present situation in the news industry, as in other industries. Newspapers should not be house magazines for big businessmen. We want the press to be an independent industry which is not subservient to other industries. We want the press to serve the people and be the voice of the people." She gave the impression that

¹A.S. Abraham, *'Effulgence of the Press : New Proposals Would Stop It Dead'*, Times of India, 2 Apl. 1982.

²*'An Ominous Move'*, Times of India, editorial, 7 May 1981.

she would like to confine the press to the limited, passive role of communicating information to the people when she said that the role of the press was to report to the people and not to advise the government. It became more explicit when she declared that the corner-stone of the government's policy regarding press was to make its freedom more meaningful. 'She pleaded for committed Press like committed Judiciary and defended it when she said, "the real issue which the Indian journalism faces today is not freedom of the Press, to which let me assure you, we are unequivocally committed, but the type of the Press the country needs. Freedom of Press becomes a somewhat arid concept when we find it out of touch with people and events."'

The Bihar Press Bill. The bill had three significant features : (1) It did not even attempt to define scurrility and indecency, which means that almost anything that authority disliked could be termed scurrilous and therefore criminal. (2) Under the bill scurrility and indecency were not ordinary criminal offences but non-bailable ones. (3) A parallel change in the Criminal Penal Code empowered not just judicial but also any executive magistrate (a petty functionary of the state government) to issue such a warrant. The courts might later throw out the charge. They might even pass strictures on the magistrate. But by then the journalist would have spent a few weeks or a few years in prison, would have been beaten, kicked and humiliated by guards and trusted prisoners and would have learned his lesson.

These fears were not exaggerated. The past record of the police, the district authorities and the state leaders speak for itself. In February 1981, the police handcuffed J. Rana, a local Journalist of Odegaon, a small mofussil town in Puri district, paraded him through the streets and forced him to drink his own urine. On 24 March 1981, the photographer of 'The Indian Express' in Chandigarh, Swadesh Talwar, was badly beaten by the police while taking their photographs dispersing a crowd, including women and children. He was knocked down and belaboured with lathis. Another journalist, who tried to remonstrate with the deputy superintendent of police on the spot, had his scalp laid open by a lathi blow.

The kind of indecent and scurrilous writing which got the state government's hackles up and which it said was the new law's objective to prevent could be discouraged, even penalised, without resorting to fresh, sweeping and repressive legislation. The present laws against libel and defamation could be invoked against offenders. In addition, a

¹Kewal Frasad Sinha, 'The Attitude of the Prime Ministers as regards Freedom of Press in India', J C P S, Jan-March, 1980, pp. 71-3.

press council exists to which complaints can be taken and where the offender, once his wrong-doing has been established can be rapped on the knuckles by a professional body charged with monitoring journalistic behaviour. The true aim of the bill was to prevent the press from exposing official misdeeds. Such exposures have been plentiful in Bihar. The Bhagalpur blindings testified eloquently to such misrule.

The Bihar government modelled its bill in every respect on the Tamil Nadu and Orissa press law. Like these two state governments, it sought to accomplish its declared ends by amending the Indian Penal Code and the Criminal Procedure Code. The Chief Minister said early in March 1983 that the Bill was as good as dead. Within days of the promulgation of its ordinance, the Tamil Nadu government forbade its employees from giving any information to the Press, or even to radio and TV official monopolies. Apart from Tamil Nadu, Orissa, Bihar, Jammu and Kashmir have put restrictions on the Press through the Public Safety Act. In Assam, the press operates under constraints, though these may be more understandable there. 'So long as the press is left, more or less to its own devices, it can only go on developing its role as the keeper of the public conscience, guardian of the public interest and scourge of the public wrongdoer.'¹

Press Council on Privileges of Legislatures. The Press Council's recommendations on what the ground rules for press coverage of parliamentary and state legislature proceedings should be are unexceptionable. Both the Central and state governments have repeatedly urged the press to be fair and responsible in its coverage. 'The council's proposals are designed to ensure that reportage of the discussions in the country's foremost elective bodies meets these criteria. The council has suggested, as has the second press commission, codifying the privileges of Parliament and state legislatures so as to enable journalists to know when they are overstepping the mark and when they are well within it. The lack of such a code now leaves a very wide grey area between legitimate and non-legitimate coverage which serves to inhibit reportage of the proceedings since what a journalist may report because he believes it is in public interest to do so may be interpreted by Parliament or the relevant state legislature as contempt of the house. Along with codification, liberal and fair interpretation of the code by the house is vital if the press is to play its proper role fearlessly. The Press Council has done well to emphasise this aspect of the matter in its recommendations. It has urged that the house use its penal powers

¹A.S. Abraham, 'Moves Against the Press : Sharpening Conflict in the States,' Times of India, 7 Aug. 1982.

sparingly and only when it is convinced that it must do so in order to allow members to do their job without "improper obstruction or interference." Likewise, when deciding on motions of contempt, the house must consider whether the relevant allegations were made after thorough inquiry and in the reasonable belief that it would be in the general interest to publicise them. True, such an approach would mean giving the press the benefit of doubt in many, if not most, cases. But that is surely better than coming down on well-researched and unmaliciously motivated reports whose publication might conceivably promote the larger social good.¹

¹*'Sound Proposals'* editorial, Times of India, 4 Jan. 1983.

CHAPTER 27

Foreign Policy And Foreign Aid

I. Basic Objectives

Determinants. India's foreign policy, like that of any other country, is determined by the following factors :

- (1) Geographical position
- (2) National history
- (3) Natural resources and economic strength
- (4) Military power
- (5) Ideological affiliations
- (6) National interests.

We would now discuss the basic objectives of India's foreign policy under the following headings :

International Peace and Security. The goals of India's foreign policy were simple, clear and straight-forward, and they have remained constant so far. The primary and over-riding goal has always been the maintenance and promotion of international peace and security. "Peace to us is not just a fervent hope; it is an emergent necessity," said Nehru. For a country like India which is in urgent need of all-round development, peace (as much external and internal) is a primary desideratum. "It is for this reason, apart from our natural bent, that we give first place to this striving for peace. No one can guarantee peace for an indefinite number of years. But we feel that even a few years gained is something worth striving for, and the longer this interval of peace the less the chance of war in the future." India's message to the world has been an insistence on peaceful methods to solve all problems. Violent methods solved nothing, in the Indian view, and indeed they started a vicious circle of bitterness and hatred.

Peace cannot live in an atmosphere of constant preparation for war and threats of war. Therefore, peace as well as security can best be maintained by efforts, however, small, to create a peace area. Speaking at the end of the first meeting of the Colombo Conference of Southeast Asian Prime Ministers, Nehru said in a ringing tone: "...Peace

can only come if we endeavour to establish the climate of peace. It is not by condemnation or mutual recrimination that we shall achieve this goal. We must forget past conflicts and past grievances and decide to make a new approach to each other in a spirit of tolerance and forbearance, with charity towards all and malice towards none." When one wants peace one must think of peace and prepare for peace, instead of thinking of war and preparing for war. On every occasion when an attempt has been made in the U.N. in the direction of disarmament or the establishment of international control over atomic energy and its use for peaceful purposes, India unreservedly threw in her weight on the side of peace.

Self-Determination for Colonial Peoples. The second important objective of India's foreign policy is the promotion of self-determination for all. India's advocacy of the cause of colonial people flows directly from her solicitude for the enslaved and the exploited all over the world. Soon after the formation of the national government, Nehru declared in a broadcast: "We believe that peace and freedom are indivisible and the denial of freedom anywhere must endanger freedom elsewhere and lead to conflict and war. We are interested particularly in the emancipation of colonial and dependent countries and peoples and in the recognition in theory and practice of equal opportunities for all races." India, which had herself suffered from imperialism and colonialism, realises fully that these scourges impoverish their victims and destroy their social and economic institutions. Resultingly, the exploited people of the world can never raise themselves to a progressive and peaceful way of life until and unless imperialism and colonialism are eliminated. India recognises the principle of self-determination without any reservation because only self-governing communities having absolute control over their own internal affairs, political, economic, social and cultural, can effectively throw in their weight on the side of international cooperation for the establishment and preservation of world peace.

Elimination of colonialism and imperialism which are at the root of conflict and war, and the recognition of the principle of self-determination for oppressed people are therefore very vital for India's effort to further the cause of world peace. On all issues relating to self-determination of the exploited peoples of the world India has been opposed to the colonial and imperialist countries. India took a prominent part in hastening the independance of Indonesia. Libya owes its independence almost entirely to Indian initiative. Its independence was secured on the basis of the resolutions moved by India at the U.N.

General Assembly in 1949. The Indian people's anti-Japanese stand in the Sino-Japanese conflict, their unqualified condemnation of the Fascist aggression against Ethiopia, Czechoslovakia, Albania and Republican Spain, their support for the freedom movements in Africa, Burma, Indonesia and later in Tunisia are the high-lights in the continuous and long-standing foreign relations of the Indian people and their Government is pledged to the elimination of colonialism and imperialism wherever they may be and in whatever form they may be masquerading.¹

Opposition to Racialism. A third important goal of India's foreign policy has been opposition to racialism and support to the establishment of an egalitarian human society in which discrimination based on colour, race, class etc., did not exist. India took this stand not only for reasons of humanity but also because racialism was one of the sources of conflict in the world, and therefore a standing threat to international peace and security. But, India did not want to adopt a crusading or vindictive attitude towards the oppressor country—such as South Africa. Her approach was peaceful and her solution was a gradual, pragmatic and healing one, compared to that of many other countries which were not any more strongly opposed to racial discrimination. India's efforts in this direction largely concerned the treatment of people of Indian origin as well as the general question of racial segregation (apartheid) in the Union of South Africa. India was also an ardent supporter in the United Nations of the adoption of the draft covenants of human rights as well as the observance of human rights and fundamental freedoms all over the world.

Peaceful Settlement of Disputes. A fourth important objective of India's foreign policy is peaceful settlement of international disputes and conflicts—the greater emphasis being on 'peaceful', rather than on 'settlement'. This is of course a corollary to the major and primary objective of promoting international peace and security. India persevered in her self-appointed role of conciliation in the settlement of international disputes and conflicts. There was persistent criticism, especially abroad, of India trying to be a 'professional mediator' in other nations' problems, although India never sought to do so unless her interest (was involved) or assistance was welcomed by the nation or nations concerned, or it was in the broad interests of the world community. It was thus that the Indian Government made the cease-fire proposals for ending the conflicts in Indo-China

¹Arora and Appadorai, *India in World Affairs* : 1957-58, p. 46.

and Algeria ; that she tried to get the release of American airmen detained in China ; that she made considerable efforts at easing the situation in East Asia during the first part of 1955. But India's most notable role in this field was in the Suez question, even though her efforts were in vain. The Indian Government had no faith in the policy and attitude of states of 'negotiation through strength', because it was illogical—for, both the parties would be simultaneously strengthening themselves and thus tended to neutralise the other party's strength.

Support to the Asian-African Community. Fifth objective of India which came to have a major place in her foreign policy was to secure for the Asian-African countries in the world counsels the voice and influence that is their due by virtue of their vast numbers and area of the globe that they occupy. An incidental objective of India was to promote and support all international efforts for the economic development of these countries which had lagged behind the European and North American countries for various historical reasons. In the Indian view, the emergence of Asia in the post-war period from a long period of slumber and/or colonial domination was a great historic event which the hitherto-dominant Powers of Europe and North America had to recognize, both for its own sake and in the interests of peace and harmony among nations. India, therefore, utilised every opportunity to promote their interests and influence, and their participation in vital decisions of the world ; she took a strong stand whenever the claims of Asian countries were ignored or were sought to be suppressed. India's most outstanding act in this respect was organizing, jointly with the other four Colombo Powers, and effectively participating in, the Asian-African Conference in April 1955.

Support to International Organizations. Finally, both to achieve the above goals and in the broader and long-term interests of international society India is a staunch supporter of all international organisations, including especially the United Nations. India was a founder member of the United Nations (and most of its Specialized Agencies), even though she was not then independent. She played no inconsiderable part in their working and has contributed her share to their success. India was an important member of the Asian-African group at the United Nations which sponsored, or fought for, so many worthy and progressive causes in the forum of the United Nations. India firmly believed that the United Nations had an important role to play in all vital matters in international affairs,

and therefore she was opposed to ignoring the Organization in the taking of vital decisions, particularly those concerning war and peace. Her vigorous support to action by the United Nations in respect of the Suez question is a case in point.¹

II. Main Features

NON-ALIGNMENT

Goals and Meaning. This is not only the most important feature of India's foreign policy, but also India's most significant contribution in the field. Nehru declared on 7 December 1946: "We propose, as far as possible to keep away from the power-politics of groups aligned against one another which have led in the past to world wars and may again lead to disasters on an even vaster scale."² Addressing the Constituent Assembly on 8 March 1949, he said: "... our foreign policy is one of keeping aloof from the big blocs—rivals—and being friendly to all countries and not becoming entangled in any alliances, military or other, that might drag us into any possible conflict."³ India's consistent condemnation of NATO, SEATO, CENTO and US-Pakistan Military Pact of 1954⁴ and war bases has reflected her great concern for world peace, which is the major note of her foreign policy. Non-aligned foreign policy did not, however, imply a negative approach to world affairs. It was rather a positive expression of faith in the principles of world peace and cooperation. It was an affirmation of faith in the United Nations. It was accompanied by anti-imperialist and anti-racialist ideals. This ideal has expressed itself in a passionate sympathy with the struggles for national independence in the neighbouring countries of Asia and Africa.

Generally speaking, non-alignment has been used in three distinct ways to keep the imperialist forces at bay. (1) There is the reservation by the Indian leaders of the right to interpret and apply the principle according to the nature of the situation to be dealt with. Consequently, the measure of India's equidistance from the power blocs has all along been unilaterally determined and treated as a non-negotiable matter. Thus in the face of bitter Western criticisms

¹See M.S. Rajan, 'Indian Foreign Policy in Action 1954-56', *India Quarterly*, July-Sep., pp. 213-19.

²J.L. Nehru, *India's Foreign Policy*, (Sep. 1964-Apr 1961) p. 2.

³*Ibid.*, p. 37.

⁴*Ibid.*, pp. 87, 94, 97.

of "double standard" and "opportunism" India could successfully defend the principle of non-alignment as one of the "enlightened self-interest" in making such important decisions as the prompt recognition of the People's Republic of China, unqualified rejection of the Eisenhower doctrine, resolute opposition to the formation of the SEATO, vociferous attack upon the oppressive white regimes in South Africa and Rhodesia.

(2) It consists in keeping a large part of the world non-aligned by means of effective and inspiring leadership to the newly independent nations of Asia and Africa. This has far-reaching effects beyond the bilateral and other relations between India and West. 'If at the Belgrade Conference of the non-aligned nations, India made a sorry face due to her ambivalence to choose between anti-imperialism and unavoidable conformity, she had more than regained the confidence of other non-aligned nations when Prime Minister Smt. Gandhi announced at the Lusaka summit (1970): "the revolution of our times is unfinished and the purpose of this conference is to draw up a clear programme of action to carry it forward. This is the challenge that the decade of the seventies places before the non-aligned countries."'

(3) While non-alignment would allow competitive flow of capital and know-how from the developed to the developing world, the terms of external trade and assistance could be appreciably liberalized and rationalized if the non-aligned nations confronted the aid-givers with a concerted move and at the same time constituted a viable commercial system *inter se* so as to facilitate the utilization of each other's comparative advantages.' India seemed to have been thinking in similar, if not identical terms, especially at the UNCTAD and World Bank deliberations. 'Non-alignment in the context would work as a useful credential to depoliticize the motives behind making the advanced nations morally responsible for the development of the backward ones.'¹

Some Observations. (i) The right of national self-determination for all peoples, recognises plurality in the international system and democratic equality amongst nation states. This predicated the end of empire and faith in the constructive role of nationalism; (ii) non-alignment was pledged to human rights, social justice and particularly the eradication of racialism in state policies; (iii) beyond ideological agnosticism in international relations, non-alignment affirmed that the choice of social and political systems within a country must

¹A K Mukhopadhyaya, *Society in Politics in Contemporary India*, pp. 142-43.

be allowed to evolve from domestic roots. It was, therefore, opposed to all forms of intervention in the internal affairs of states; (iv) in the face of peacetime global military networks, non-alignment argued that national security must be based on the totality of a nation's political and economic resilience and therefore, must find a balance between development and defence; and (v) non-alignment demanded that nations must commit themselves to a policy of peaceful resolution of problems. This was not just a moral imperative or an economic compulsion, but healthy prudence in a world of nuclear weapons and the nature of modern wars.¹

How should the movement face the economic problems created by its own ranks. Can it shirk from recognising that there are fundamental differences of economic interest between the semi-industrialised developing nations and primary producers, which the outlines of the New Economic Order cannot overcome? When the energy question and other economic problems within the Third World could not be resolved on the basis of enlightened internationalism, is there any hope for a global dialogue between all the rich on the one side, and all the developing ones on the other? The overriding challenge is going to be whether to stand by the principles of diversity and co-operation or be obsessed by the show of unity overlooking the transparent multiplicity of interests and attitudes within the movement. The building blocks for international stability and enlightened co-operation must start with national self-reliance and developmental priorities and regional and intra-regional co-operation based on geography and economic complementarities.

Mrs. Gandhi could in a historic contribution rescue the non-aligned movement from further exposure to ineffectiveness and redundancy. She could simultaneously highlight the abiding relevance of the principles of non-alignment for the national policies of all countries. India can effect the rationalisation to underscore the contemporaneous validity of non-alignment. Otherwise, the present rut and conference routine can only lead to embarrassing diplomatic controversy, semantic jugglery and hollow pretensions of common comprehensive purpose in the movement. The Declaration, a sort of non-aligned panchsheel rising above current issues and prevailing controversies, could become a lodestar for international politics in the decades ahead. Paradoxically the non-aligned faith will endure and shine brighter as a beacon if the movement—its institutionalised church—no longer obscures its

¹Jagat S. Mehta, '*Principles v. Movement*,' Indian Express, 22 Feb. 1983.

original rationale which was to safeguard the right of dissent, the reality of diversity and the imperative of peace and co-operation in a system of nation states.¹

Prime Minister Smt. Indira Gandhi while addressing the NAM on 7th march in New Delhi as President, laid stress on the need to right economic imbalances, with mankind balancing on the brink of the collapse of the world economic system. Admittedly, the developing world has no margin of safety and will be first and worst to suffer in economic breakdown. Smt. Gandhi correctly pointed out that not even the most affluent can remain immune to the disturbances certain to result from an economic breakdown. Unfortunately, despite Ottawa, Cancun and Versailles, negotiations between the developed and the developing continue to be a dialogue of the deaf. 'Not many in the North realise that sustained social and economic development of the South is in their own interest. Despite the propaganda put out in Western circles, the non-aligned nations are not asking for charity or philanthropy, but for sound economic sense which will be beneficial to all.

'It is in this context that significance attaches to Mrs. Gandhi's call for an international conference on money and finance for development structured so as not to weigh in favour of the North. The Prime Minister's emphasis on immediate North-South cooperation was timely.

There are countries in desperate straits which cannot wait for action by the world community as a whole. It should not be beyond the capacities of the non-aligned as a whole to ensure that self-reliance began with the weakest. The Prime Minister's call for boldness and integrity to resist neo-colonialism packaged in "technology and communications, commerce and culture," will find many echoes among the assembled members. An important point made by Mrs. Gandhi was that big power interference became possible not only due to economic weakness, but also because of differences within the non-aligned group. Her prescription of economic and technological self-reliance, peaceful discussion of intra-NAM disputes, and strengthening of the United Nations is certainly as simple as it is certain to be effective.'²

Attitude of Opposition Parties to non-Alignment. The CPI did not support the policy of non-alignment in the early years as it complained that the Government was carrying out the policy of British imperialism. But the party extended its support to the foreign policy from

¹Jagat S. Mehta, 'Towards New Panch Sheel,' Indian Express, 1 March 1983.

²*Nam Sets the Agenda*; editorial, Hindustan Times, 3 March, 1983.

1955 onwards. Bhupesh Gupta, leader of the Communist Group in the Rajya Sabha on 8 December 1959 said : "India's policy of non-alignment and friendship among nations is correct and every day its correctness is being proved." Like the CPI the PSP also supported the policy of non-alignment ; but it did not fail to point out the 'deflection' of the policy from the rigid path of non-alignment. The party criticised the Government for following the non-alignment of the 'timid and opportunistic'. It wanted the Government to follow an 'effective' and 'dynamic' policy of non-alignment. According to the Praja Socialists one of the drawbacks of the policy was that it was never security oriented.

The Jana Sangh also supported the policy of non-alignment. Addressing the General Council of the party in August 1954, Mauli Chandra Sharma, then President of the party said : 'India's foreign policy has already achieved considerable success. Not only had it brought an end to war in Indo-China, it had widened the area of peace or the third bloc of peaceful coexistence'. But the party held that the Government had often failed to pursue a policy of strict neutrality and non-involvement in practice, as a result of which India had been steadily losing the friendship of many countries. Among the major opposition parties, the Swatantra party alone criticised the policy of non-alignment ever since it came into existence in 1959. It wanted to give up non-alignment and urged the Government to form an alliance with the West.¹

Positive Neutrality. Complaining against the use of the term 'non-alignment,' Nehru, during the debate on the defence budget on 25 March 1955 said that non-alignment being a negative concept did not truly convey the full and positive content of India's foreign policy. The positive and apt characterisations of the policy are—*independent policy* or *policy of positive neutrality*. 'The policy of non-alignment does not mean, nor is it in effect—'neutrality' or 'neutralism' by which labels India's foreign policy is often referred to in the West, more often than not, as terms of opprobrium. In her role in world affairs, India does not merely seek to be a sort of self-appointed umpire on international society. Non-alignment is not also isolationism or self-abnegation in world affairs.

In more detail, the main features of positive neutrality may be described as : (i) non-participation in military blocs, together with

¹See K. Raman Pillai, *India's Foreign Policy : Basic Issues and Political Attitudes*, pp. 30-32.

actively opposing the policy of forming such imperialist blocs ; (ii) the struggle for general disarmament and the ending of nuclear tests ; (iii) independent opinion on all international issues and freedom for each to act, in accordance with the interest of one's own country ; (iv) mediation in the settlement of international disputes for the purpose of easing international tensions ; (v) anti-colonialism manifesting itself in active support of all peoples fighting for independence ; and (vi) anti-racialism expressed in the demand for complete equality of races and the banning of discrimination of any people.

The emergence and development of India's policy of positive neutrality are closely linked with the strengthening of her relations with the Soviet Union. The Soviet Indian agreement on 2 February 1955 marked the beginning of extensive and fruitful cooperation between India and the U S S R. Because of the critical and unsympathetic attitude of the Western bloc to Indian neutralism, the Government and people of India felt that the only way for India to survive as an independent nation was to promote wider and deeper relations with the socialist countries. Moreover, where India's vital interest were concerned (as in the case of Kashmir) or where Indian national feelings were deeply stirred (as in respect of the Goa question) the Western powers failed to support India.¹

Peaceful Coexistence and Panchsheel. The chief positive means by which India sought to achieve the goals of her foreign policy has been by following the concept and principle of peaceful co-existence of nations of diverse ideologies and interests. The idea that peoples of different religions and systems of philosophy could live and work together is as old as the Indian civilization. Free India sought to apply this concept and principle in the realm of foreign relations in the context of rival economic and social systems and ideologies. Early in 1954 this concept was given certain precision and formal recognition in what later came to be known as the Panchsheel or Five Principles. These principles were first formally enunciated in the India-China agreement dated 29 April on trade and intercourse between the Tibetan region of China and India. The agreement stated in the preamble that it was based on the following principles : (i) mutual respect for each other's territorial integrity and sovereignty ; (ii) mutual non-aggression ; (iii) mutual non-interference in each other's internal affairs ; (iv) equality and mutual benefit ; and (v) peaceful co-existence. Panchsheel appealed to a large number of nations as widely

¹Yuri Nosenko, *Jawaharlal Nehru and India's Foreign Policy*, p. 193.

different in their foreign policies as USA, the Soviet Union and China. Explaining the essence of his approach, Nehru said in Rajya Sabha on 12 December 1957 : "We place our view-point as fairly and clearly as possible, but always emphasising the common points and not the differences." To illustrate this, Nehru cited India's efforts in the UN General Assembly to find a solution for the Algerian problem, which was complicated by the presence of 1.2 million Frenchmen in the country. In India's view, the first objective was to create a peaceful atmosphere which would slow down the conflict and help antagonists to come together. Despite considerable difficulty in finding a formula, India in cooperation with some other countries prepared a resolution which the Assembly passed unanimously.

Finally, non-participation in military pacts, especially of SEATO and Baghdad Pacts in Asia, revealed that military pacts had become a menace to India's security and integrity. Menon gave three reasons why military pacts menaced our security and international harmony : (1) They brought the cold war near to us. SEATO, in the form of a pact, provided the terrain and man-power for use by militarily stronger power. (2) Experience showed that military alliances were enlisted in support and in pursuit of the domestic policies of the countries which were parties to these alliances against others. (3) Such pacts divided countries which had been formerly united. The Baghdad Pact, instead of bringing a sense of unity, had divided the Arabs.

National interest. Nehru observed : "Whatever policy we may lay down, the art of conducting the foreign affairs of a country lies in finding out what is most advantageous to the country. We may talk about international goodwill and mean what we say. We may talk about peace and freedom and earnestly mean what we say. But in the ultimate analysis, a government functions for the good of the country it governs and no government dare do anything which in the short or long run is manifestly to the disadvantage of that country."² Nehru himself expounded in Parliament in December 1947, the concept of "national interest". Assessment of 'national interest' in a country is no doubt based on various factors, such as historical, geographic, economic and military. But above all the concept of 'national interest' in a country would depend upon the social framework and the nature of the government.

¹Arora and Appadorai, *op. cit.*, pp. 6-9.

²Speech in the C.A. (Legislature), 4 Dec., 1947, Vol. II, pp. 1962-63.

India's foreign policy has over the years been directed towards the promotion of the country's basic national interests in the light of the requirements of the changing internal and external environment. Country's national interests, as defined by the nation's leaders are : (i) to create a pattern of foreign relations which helps and does not in any way hinder the solution of India's domestic problems of achieving a higher rate of economic development ; (ii) to ensure the security and integrity of India and eventually to create a structure of stable peace in the region ; and (iii) to strive to promote world peace and to bring about such structural changes in world politics as would secure a more just and equitable pattern of relationship between the privileged and powerful nations on the one hand and the under-privileged and under-powered nations on the other. In the immediate post-independence years, the salience of India's internal needs and of regional considerations in the making of the country's foreign policy appeared to be far greater than that of India's possible role in the wider international environment. These developments helped India to emphasise the third element of its national interests—the promotion of peace among the contending Greater Powers of the world and the reformation of the structure of world politics.¹

III. Other Important Aspects

India and the U. N. O. Since India became a member of the U. N. O. in 1945, she has been a most consistent defender of the great principles of the UN Charter. She realises that whatever may be the limitations of this Organization, it is an essential instrument of peaceful cooperation and a means to bring about desirable changes as well as to promote peaceful settlement of international disputes. Dr. Radhakrishnan told the Special Session of the General Assembly on 10 June 1963 : "The United Nations Organization symbolises the hopes and aspirations of the peoples of the world for a central authority, which can control the activities of all nations eventually. The United Nations hopes to supply that soul or that conscience to the world community which is emerging". India also looks upon the UN as a great centre for organising welfare activities on an international scale and consequently, all the new nation-states as well as the dependent peoples have a great stake in the success of this organisation. The UNO can help the member states "in regard to such basic matters as human rights, freedom of dependent peoples, and the development of economically backward areas."

¹M. S. Rajan (ed.), *Indian and the International System*, pp. 341-42.

But India believes that the success of the UN requires the Great Power unity. It is precisely on this ground that she has never supported any proposal for amendment of veto power of the Big Five. The same reason prevented India from supporting the US sponsored "Uniting for Peace" resolution in the General Assembly in November 1950. India was genuinely afraid that such a device would convert the UNO into a cold war instrument of one Big Power against the other ; and that would really be fatal for the work of the Organization. India's approach to all critical political questions in the United Nations has been motivated by this basic objective. From the Korean war (1950) down to the Cuban crisis (1962) India all along tried to maintain contacts between the power blocs preferably through the UNO and seek a negotiated settlement. India's special role was fully recognised by both the power blocs in the International Commissions in Korea as well as in Indo-China. India was able to remove much mis-understanding between the disputant parties and thereby help the UNO to restore peace.

At the same time India accepted her due share in peace-keeping efforts of the UN both in the Middle East and in Congo. Indian army stood by the UNO and through their 'blood, sweat and tears' India upheld the principles of the UN Charter. Indian defence forces assisted the implementation of the Korean Truce Agreement and the recommendations of the International Commission in Vietnam, Laos and Cambodia. In 1956 India participated in United Nations Emergency Force and in 1958 in UN Observation Group in Lebanon. In 1961 India also sent a brigade of combatant troops of about 6000 and an air unit to UN Force in Congo. On questions like peaceful employment of atomic energy, universal disarmament and test ban, India has always supported all progressive view-points in UNO for an early settlement. India has all along defined the threat of nuclear war as the most crucial problem of mankind.

Moreover, India has always desired the United Nations "to develop into a true instrument of world-wide prestige" with as broad-based a membership as possible. It was precisely this calculation which made her a fervent supporter of Chinese representation in the UNO. In particular the welfare programme of the UN has attracted India most. Ever since 1949 India has preferred the channelisation of all foreign aid through UNO as the best security of national independence and sovereignty of the recipient countries. India is deeply interested in technical assistance programme and has already received substantial amount of aid through diverse UN Specialised Agencies.

India is an active participant in FAO's Freedom from Hunger Campaign. She has already ratified 27 out of 118 ILO Conventions.

India's approach to the United Nations Organization has, therefore, been all along the line to strengthen the principles of the UN Charter. She is concerned to keep the Organization out of the paralysing influence of the cold war and to utilise it as an instrument to reach negotiated settlement on all vital international questions. She wants the Organization to be as universal as possible and act as a centre of organizing international efforts to remove all sources of international tension like colonialism, racialism, gross economic inequality and extreme differences in standard of living among nations. India's role in UNO has thus greatly strengthened the world organization in its solemn efforts to maintain international peace and promote human welfare for all.

Membership of the Commonwealth. As regards India's relations with the Commonwealth, Congress at the Jaipur Session said : 'India, however, desires to maintain all such links with other countries as do not come in the way of her freedom of action and independence and the Congress would welcome her free association with the independent nations of the Commonwealth for their common welfare and the promotion of world peace.' In May 1949 at Dehradun the AICC approved continuance of India in the Commonwealth and said, "The Committee is of opinion that this action is in accordance with the directive given in the Foreign Policy resolution of the Jaipur Congress. It maintains the full sovereign independence of the Indian Republic while at the same time keeping the free association of India with other Commonwealth countries in a new conception of the Commonwealth which in no way interferes with the sovereignty and freedom of action of each member country."

Though there was bitter criticism in India about its link with the Commonwealth soon after the Suez crisis, it decided to continue the association with the organisation. 'India always considered the Commonwealth a bulwark of peace and security and naturally the British action in Egypt caused a great set-back to this concept in India. Still, India decided to remain a bridge between the two warring countries "and not to break the bridges that already exist." India's membership of the Commonwealth was partly motivated by the identical foreign policy objectives it shared with Britain and other members of the Commonwealth. They in effect subscribed to Panchsheel, the hard core of India's foreign policy.'

India and the Overseas Indians. Beginning in the colonial period,

overseas Indians have played a key intermediary role in world economy through their supply of labour; and they continue to play this role even today. According to the exigencies of world economy, the numbers and places of such persons have changed drastically in some places since 1947. While the place of their residence have expanded, so that to-day they are found in almost every country of the world, in some areas their numbers have fallen, as in East Africa. In almost every place that overseas Indians have settled, the usual pattern has been for them to keep themselves separate and aloof from the indigenous population. The greatest fear for them in the past was that of assimilation, which has led in some countries to attempts by such Indians to revive Indian culture, sometimes assisted by the Government of India, as in Guyana, Mauritius and Fiji. A facet of their behaviour, rooted in their sense of identity is the problem of racism, which has wider implications for all of India's relationship with co-developing countries, particularly in Africa not just for overseas Indians alone.

One of the most important features of overseas Indian populations is their monetary remittances to India. Through remittances, India can tap tremendous and steady wealth, not just in monetary terms alone but potentially in skills as well. But in several states in Southeast Asia and East-Africa, the presence of such Indians established during the colonial era became unwelcome after their country's independence. 'The basic plank of India's policy toward overseas Indians has been that these populations should not look to India, but identify themselves with the local population where they lived. Krishna Menon in 1950 stated that Indians abroad had to give allegiance to the country they lived in. He did, however, stress the affinities they had with the "mother" country, but these were not necessarily political. Even as India was publicly committed to supporting de-colonization everywhere, it was caught in a dilemma over overseas Indians. Overseas Indians have been urged to take local passports, reducing India's responsibility in the matter; yet in the 1950's, this led to a contradiction in India's de-colonization policy. Indians were advised not to take part in local politics, yet in other ways, India interfered in local colonial politics, as for example in 1950 when India brought to Madras a trade unionist from Malaya, who was under sentence of death. In Madagascar, the contradictory advice to overseas Indians could be seen most clearly when in 1955 it declared: "It is the duty of Indians living abroad to act in such a way as to help

¹Arora and Appadorai, *op. cit.*, pp. 135-36.

dependent territories obtain their autonomy.”¹

Strategic Considerations with particular reference to Indian Ocean in Foreign Policy. India's security and the ability of her foreign policy and diplomacy to maintain it greatly depend on the high politics of overarching international configuration of power. This has been so since independence, and will continue to be so, because a strategically important but physically weak lesser developed country like India, in an age of rapidly telescoping communications is incipiently a 'power vacuum' of considerable proportions. The East West conflict continues to remain very much a part of the reality of contemporary international relations, and constitutes probably the most significant component of India's strategic setting. But a more overt of its aspects relates to her two northern region neighbours—Pakistan and China.

The more significant sources of threat to Indian security from her other neighbouring areas derive not as much from any one state or any combination of states, or from any particular contentious regional issues involved, but rather from the involvement of the super powers, and their concerns in these areas. Thus the familiar Indian Ocean problem, or the issue of access to Middle Eastern oil, so far as India's strategic setting is concerned, falls really under the earlier section on super-power relationship. These, then, constitute some broad contours of India's strategic setting in high politics. But high politics, today, do not alone derogate from the security of states, especially of the LDCs. Economic and other associated factors can seriously erode their viability.

The salient strategic considerations for Indian policy should be to place the country in such a position as to enable her (a) to guard against all spill-over effects of any form or type of competition the super powers may chance to indulge in ; and (b) to obtain the due security benefits inseparable, as *quid pro quo*, for any form of competition directly or indirectly related to one of the premier strategic areas of the world a competition which after all appreciably helps both to ensure their global mutual security. These ought to be the pre-eminent overarching objectives, the generic parameters, of Indian policy.

India has been particularly concerned with potential spill-over of super-power relationship in the Indian Ocean. The US objectives in the Indian Ocean area have been spelt out by the document "US

¹Srikant Dutt, 'India and the Overseas Indians ; India Quarterly July-Dec., 1980, pp. 309-26.

Foreign Policy Objectives and Overseas Military Installations” prepared by the Congressional Research Service in 1979 for the Committee on Foreign Relations of the US Senate. It says “The US has both a conventional and perhaps a strategic nuclear military interest in the Indian Ocean region. Military objectives for US conventional forces include the capability to (1) protect US economic interests in the Persian Gulf region, (2) employ or threaten force in support of US diplomatic objectives in the Middle East, (3) secure the Indian Ocean and sea routes against harassment or interdiction, (4) intervene in support of other objectives in the littoral states and (5) balance Soviet forces in the region and attain superiority in a crisis. The US also possesses a potential strategic nuclear military objective of developing, when necessary or convenient ballistic missile submarines targeted on the USSR”. The vacuum theory was merely an excuse to induct the US navy in the Indian Ocean. Under this pretext, the Pentagon has been trying to strengthen its naval presence to dominate the Indian Ocean area. The argument that the void would be filled by the Soviet Union if the US did not move into the Indian Ocean did not convince anyone.

The major reason given by various analysts as to why the Soviet Union wanted to make its presence felt is its desire to reach the warm waters. But the Soviet Union now has access to ice free parts of the Mediterranean, however, the Soviet interests in the free navigation across the Indian Ocean and the various entries as well as exits is understandable, for this is the only route which connects its Far Eastern ports with the European ports. J. B. Miller is of the view that Soviet aims include protection of its shipping, development of capacity to track down and counter American nuclear submarines, the projection of Soviet political and economic power and denial to the West of the access to resources and the opportunity to pressurise the oil-producing countries. The most important Soviet interests are, however, three : (1) oil, (2) preventing this area from becoming a spring-board for attack on the Soviet Union, and (3) keeping many states free of the Western influence.

The littoral states’ ‘determination to defend their sovereignty started crystallising as far back as 1964, when the then Prime Minister Bandaranaike of Sri Lanka called upon the members of the non-aligned world to see that the setting up of the nuclear-free zones was extended to the oceans especially the Indian ocean and the South Atlantic. Bandaranaike’s forth-right assertion was widely welcomed by the non-aligned countries for it saved the littoral countries of the Indian

Ocean from interference and military pressure from the imperialist powers. The Preamble to the resolution passed by the UN General Assembly on 16 December 1971, "deals with the rationale and circumstances which promoted the move for making the Indian Ocean a zone of peace." It states the "determination of the people of the littoral and hinterland states of the Indian Ocean to preserve their independence, sovereignty and territorial integrity and to resolve their political economic and social problems under conditions of peace and tranquillity." The resolution asserts that the Indian Ocean along with air-space over it and oceanfloor under it is a zone of peace. The second part which is the "heart of the proposal", is addressed to the great powers. It calls for a halt to escalation and expansion of their military presence and categorically demands that the great powers should withdraw from all their military bases and installations.

India's Nuclear Policy. China is already a nuclear power and Pakistan is making its best efforts to become another power on the borders of India. The Chinese are ideologically committed to spreading the revolution. The greater threat posed by China is not in the profession of her ultimate aim but in her immediate objective of dominating border areas by a combination of subversion and guerilla war-fare with the aim of acquiring domination in Asia in the guise of a militant leader of the poor and the down-trodden. Since, in the foreseeable future, China is likely to engage India in limited border wars, it would for short run purposes be enough if India decided to acquire and manufacture tactical nuclear weapons and deploy them against the Chinese forces along the Himalayan border.

Therefore, while immediately aiming at the acquisition of a tactical nuclear force, gradually the nation must work its way to full nuclear status. An independent nuclear deterrent will ensure that our vital interests are safeguarded. No nuclear power would use blackmail tactics or interfere in our internal affairs with impudence. Pakistan will behave more reasonably and cautiously. Pakistanis are realist enough to understand the implications of force. All in all the attainment of nuclear status will bring about a condition of reasonable amity between us and China and Pakistan on the other hand. We would be able to act and our voice would be heard with greater respect, commensurate to our size and population in Asia. Our strength would be a boon to South East Asian countries which today fear coming under Chinese hegemony.

The decision to go for a nuclear defence policy will also mean spectacular advancement in science and technology within the country

struggle. Moreover, an apparently tacit alliance between the USA and China forced India to enter into a treaty of friendship with the Soviet Union. India was able to inflict a severe military defeat on Pakistan. Indian victory also meant a serious diplomatic debacle to Nixon administration. 'From hindsight it may be said that the treaty (between India and the Soviet Union) marked the beginning of a manifestation of new dynamism in the policy of non-alignment. The Treaty has never come in the way of India's accent on independence in foreign policy decision-making....As regards the United States, for a fresh rapprochement India insisted on a recognition of "new realities" in the sub-continent—a recognition of India's pre-eminent position in the region. The US policy posture towards India slowly began showing signs of a recognition of the "new realities". In his Foreign Policy Report to the Congress in 1973, President Nixon said : "The United States respects India as a major country. We are prepared to treat India in accordance with its new structure and responsibilities."'¹

The events and developments that took place between 1969 and 1971 in Pakistan led the Soviet Union to revise its policy towards India. In the years 1970-71, the foodgrain production attained a record. Political stability, increased production and healthy economy enabled Smt. Gandhi to face the Bangladesh crisis with courage and determination. The liberation of Bangladesh as an independent nation was aptly described as "a second liberation for India", for it made the nation "more secure than it ever was". Many countries praised India's diplomacy and capability; particularly in Asia, India began to be recognised as a great power. Budhraj observes : 'Following the liberation of Bangladesh, one of the major aims of India's diplomacy was to improve India's relations with its neighbours and to make South Asia free from outside interference. For this, it was necessary to assure the sub-continent nations that India did not have expansionist-designs, though it had become the dominant power in the region. In pursuance of this objective, the Indian Prime Minister offered India's hand of friendship to Pakistan and withdrew all Indian troops from Bangladesh by 12 March 1972'.

It was followed by the Simla Agreement between India and Pakistan, which established the principle of bilateralism between the two countries. Withdrawal of Indian troops from Bangladesh and Pakistan was appreciated by India's neighbours and other third world

¹P S Jayaramu, *Continuity and Change in India's Policy*, I J P S (Jodhpur), Jan. 1979, pp. 58-9.

countries. But a serious gap still characterised India's foreign policy in that India did not have normal relations with Pakistan. When Smt. Gandhi visited Moscow in 1976, she was welcomed as the leader of a great friendly country. But as Indo-Soviet relations improved, Indo-American relations began to deteriorate. India's growing nuclear capability, demonstrated in 1974, and the record food harvest in 1975-76 further boosted India's image abroad.¹ Another break-through to Indian non-alignment took place between January-June 1976, with the resumption of diplomatic relations at the ambassadorial level with China and Pakistan, signalling thereby a new dimension to India's relations with her neighbours. The Indian press lauded the development.

Janata Government's Foreign Policy. Foreign Minister A.B. Vajpayee's enunciation of foreign policy may very briefly be stated here : 'Non-alignment is not the policy of an individual or a party. This is based on national consensus'. But it is no longer a lonely cry for peace in a global battle-ground of armed camps. The voice of non-alignment has become the trumpet of more than half the total membership of the international community. 'Non-alignment gives freedom of flexibility and yet enables a country to join with like-minded nations who face similar economic and political odds.... India is well placed to pursue a policy of simultaneously safeguarding its own interests and supporting the enlightened goals of international social justice. 'As a nation, India can be self-confident to clasp the hand of friendship everywhere and welcome cooperation which is based on dignity and can be judged on the touchstone of mutual benefit.

'We have recognised that our first priority must be to promote a relationship of cooperation and trust with our immediate neighbours.... Overlooking any suspicions of the past and not denying that some problem will always arise with close neighbours, we believe it is in our separate and common interest to forge on the basis of our geography, the sinews of economic cooperation in the sub-continent.' Though India's first concern is for its neighbourhood, yet it has a shared interest in the friendship, welfare and search for self-reliance and progress by its friends. India has assured the Arab world that it would continue to lend its full support for a just settlement of the West Asian problem based on the UN resolutions. With South Asian countries India has very old links and no serious bilateral problems.

¹See Surendra Chopra (ed.), *op. cit* , pp. 163-74.

It would follow with interest their efforts to find the answer for national integration and economic development within the framework of regional stability'. In Indian Government's perception, the relations with the Socialist countries do not in any way inhibit the search for improved relations with the USA and Western Europe. Many of them (European countries) have taken an enlightened interest in our problems and have extended their wholehearted cooperations in our development efforts. There is no hesitation on our part to have a better dialogue with Europe.... Like with Europe, we have reason to believe that after the recent development in India, the climate for the restoration and improvement of relations based on dignity and self-respect, with Canada and the USA is more propitious. The new administration in USA is taking a fresh look at the world to find a new balance between their own national interest and more cooperative world order.¹

N.A. Palkhiwala, Indian Ambassador to the United States in a speech before the Council of Foreign Relations lucidly analysed the foreign policy postures of his government as : (1) a policy of genuine-non-alignment as regards super powers, (2) a sense of direction in the Third World, and (3) a feeling of cohesion in the South Asian region. In spite of the repeated assertions by the government that it would pursue a policy of genuine non-alignment, there were apprehensions in the minds of the Soviet leaders as well as many in India that the new government was pro-West and that the Indo-Soviet relations would suffer to that extent. As regards India's relationship with the US, it must be acknowledged that two countries put their relations on firmer grounds.

However, commenting editorially under the heading 'Not much of a success', The Times of India said : "President Carter's visit has not been a glorious success. Even so, it cannot be denied that if the visit has not led to a sharpening of differences, it has put them into sharper focus—a result neither side could have either wished for or anticipated when the trip was planned.' India's relations with Pakistan showed symptoms of improvement in the wake of the goodwill visit paid by Indian foreign Minister. Speaking to Indian newsmen, Gen. Zia said that he was impressed by the sincerity of India's good neighbourly intentions. India-China relations also showed signs of gradual improvement.

Participating in a university seminar in New Delhi in May 1977,

¹A.B. Vajpayee, *New Dimensions of India's Foreign Policy*, pp. 40-6.

Foreign Minister Vajpayee said : "We have conducted and are conducting an open policy of friendship, mutually advantageous cooperation and equal and beneficial bilateralism' with our neighbours. There are no hidden undertones or traps here.... "There were indications that the model of 'integrated economic community' that existed in Western Europe inspired the Janata policy makers. The execution of the policy of 'beneficial bilateralism', had three important dimensions: (i) personal rapport, (ii) economic accommodation, and (iii) political neutrality and non-interference in internal affairs. The Indian leaders sought to establish personal rapport at the highest level with their counterparts in each of the neighbouring countries. This was done through the frequent exchange of visits with all the neighbouring countries. The second dimension of economic accommodation was manifested in the Agreement signed on 5 November 1977 between India and Bangladesh on the sharing of Ganga waters at Farraka. India's observance of strict 'neutrality and non-interference' in the internal affairs of its neighbouring countries was the most important.¹

Girilal Jain wrote the following four articles in the Times of India under the captions : 'Foreign Policy Consensus : Some New Factors at work' (6 April 1977) ; 'Continuity of Foreign Policy : Some old Compulsions and Considerations' (17 August, 1977); 'India's Foreign Policy : Only a Change of Emphasis' (29 November 1977) ; and 'New Tilt in Foreign Policy : Criticism likely to Grow' (15 February, 1978). These clearly indicate the trend from continuity towards change. Janata Party leader, Madhu Limaye, on 25 February 1978 alleged pro-American bias in Indian foreign policy. He said : "We should not follow a policy of kicking friends and licking the boots of the aggressor and pointed out that China had not given up the "principle of punishing states." The China visit was not only ill-conceived and ill-timed, but India was not even clear of its objective.²

Manorama Kohli calls the foreign policy of Janata Government 'a case of continuity and change'. In short, the Janata Party found some 'tilts' in Indian non-alignment which the new leadership wanted to redress. One of such tilts was the Indo-Soviet Treaty of 1971, which bound India into some kind of special relationship with one of the super-powers. 'But all such expectations that Indo-Soviet rela-

¹S.D. Muni, 'India's Beneficial Bilateralism in South Asia,' *India Quarterly* (Oct.-Dec. 1979), pp. 418-19.

²*Times of India*, 26 Feb. 1978.

tions will strike out new grounds of friendship were belied as much as the apprehensions about the deterioration in Indo-Soviet relations. The Indo-Soviet Treaty was not abrogated, nor did one find any indications of its abrogation during the Janata regime. The Government, it appears, felt the necessity of the special relationship" in 1979 as much as the need to have such a relationship was discovered in 1971.¹ Harish K. Puri found 'lack of perspective' in Janata Government's foreign policy. He concluded : 'What was abundantly clear was a marked ineptitude, prevarication, vacillation and lack of perspective. The gloss of certain moralism and high principles did not fool anybody.... Refusal to confront reality because it was complex was escapism and complacency. It was worse when attempts were made to rationalise ineptitude and lack of perspective by the moralistic gloss.'²

We would like to conclude this aspect with Chavan's observation ; 'While continuing to take part in the non-aligned movement, the Government is doing it with certain reservations. They are constantly reminding the world and themselves that they are genuinely non-aligned. They have put the word 'genuine' before 'non-alignment'. When the Government repeats this phrase so often and so many times, one is inclined to suspect their motives. After all non-alignment doesn't mean neutrality. Non-alignment is a positive concept. It has the content of anti-imperialism and anti-colonialism, and every step, every position the government takes will have to be judged by ascertaining whether it meets the test of anti-imperialism and anti-colonialism.... If the present Government forgets the principle of self-reliance and dismantles the scientific progress India has made, I would warn the government that they would destroy the valuable base.'³

V. Foreign Aid

Foreign Aid and India's Need for it. The essence of aid is the transfer of money, goods and services from one nation to another. Economic aid consists of two categories : capital resources received from international organisations and agencies ; and capital received from foreign governments. They in turn include grants and loans repayable in the local currency. Loans are politically preferable in that they make the aid relationship reciprocal and business-like and

¹See Surendra Chopra (ed.) *op. cit.*, p. 323.

²*Ibid.*, p. 447.

³Y.B. Chavan, *India's Foreign Policy*, p. 48.

thus share the sensibilities of the recipients. At the time of independence, the Indian economy was backward ; about 68 per cent of the working population was engaged in agriculture ; about 14 per cent in industry (large and small scale), some 8 per cent in trade and transport and the remaining 10 per cent in professions and services including domestic service.

Government Policy. Explaining the Government's position with regard to the acceptance of foreign aid, Nehru told the Parliament ; 'I am quite clear in my mind that I would rather wish that our advance was slower than we become dependent on the aid of other countries.' But then he hastened to add : 'I really do not see why we should be afraid provided we are strong enough ourselves, of taking this type of aid from other countries which obviously helps us to go more rapidly ahead'. In India, foreign aid was viewed with succinct hostility and suspicion, or at least, cautious and hesitant welcome.¹

Stated briefly, India's basic policy towards aid was that it should assist in the achievement of her own stated economic objectives filling gaps as they appear. This involved a continuous dialogue with the aid givers for better understanding of the purpose of the aid. In some cases, particularly in the recent years, policies were substantially altered subject to pressure from aid giving countries. However, there was no evidence to show that India made any change she considered to be against her interest simply in order to receive aid. This was even more certain in the sphere of foreign policy where sovereignty was quite clearly asserted and each issue decided on its merits. Within these limits, her aim was simply to obtain the best terms possible and with no strings attached to it. "The Five Year Plan", Nehru said, "was not basically affected by foreign help but was entirely depended on the sources available in the country". The Government's policy was to accept foreign aid only to the extent it was forthcoming on the terms laid down by our Government. "At the most, we would have to drop out certain items from the plan or keep some schemes going slowly if we are not able to meet the cost with our resources." The plan was not formulated on the basis of foreign help available.

Attitude of Other Parties. Criticising the economic dependence of India, the Communist Party in its Eighth Congress explained that the national bourgeoisie tempted by the offers of 'aid' made by British and US monopolists through schemes like the Colombo Plan etc. had sought to rely mainly on such Western offers for building its economy. Through these schemes and offers, the imperialists still hoped to keep

¹K. Raman Pillai, *op. cit.*, pp. 102-03.

India's economy tied up to imperialist finance and market. The leftists attacked aid on the ground that by supporting reactionary group in power, it retarded introduction of the institutional and political reforms, particularly effective land reform, which were necessary for development. Aid, according to them, propped up reform oligarchies and conservative and feudal social systems and perpetuated the system which made it necessary.

The rightists also criticised India's reliance on foreign aid, which was very heavy. They argued that aid, by encouraging central planning and public prestige projects, discouraged the growth of private savings and private initiative, frightened away foreign enterprises, discouraged economy in the use of capital, and generally destroyed the basis of decentralized decision-taking which according to its view was the prerequisite of development. Aid thus was thought to perpetuate the system which made aid necessary. Some critics went further and said that aid pauperized the country, and made it increasingly dependent on external assistance.¹

The policy statement adopted at the Party's Gaya Conference, the PSP expressed its views in these words : "Socialists wish advanced countries to extend to under-developed countries technical aid and financial assistance. Socialists welcome only such foreign technical aid and financial assistance as are based on the conviction that the eradication of poverty is the common need and responsibility of the entire humanity and that the greater resources of advanced countries place a duty on them to assist the underdeveloped countries and thereby promote world peace and economic stability as well as human happiness and welfare." The party expressed its strong dislike for aid with strings', so it wanted foreign aid to be governed by the principle of economic equality and not by that of economic exploitation for political purposes,

The Swatantra Party's views on foreign aid were different from those of the CPI and PSP. It opposed the policy of huge foreign debts being incurred without any plan or prospect of adequate exports to enable India to discharge these obligations. It encouraged the flow of foreign capital into private enterprises in India which would contribute to rapid industrial progress. It also expressed its anxiety to secure as much military aid as possible from friendly countries to strengthen India's resistance against China, in the wake of the border conflict, in October-November 1962. The Jana Sangh wanted to reduce

¹M.S. Verma, *Union Cabinet in India*, pp. 130-31.

India's heavy dependence on foreign capital for development programme. It feared that foreign capital would lead to foreign influence and would also determine the direction of India's economic growth. Hence it did not favour excessive dependence on foreign capital.¹

External Assistance and Five-Year Plans. While welcoming foreign assistance and foreign capital in general; the Planning Commission clearly stated that 'priority will no doubt go to such external investment as is available from institutions organised on an international basis.' The reliance that India placed on foreign aid was clear from the fact that the development programme in the Five-Year Plan exceeded the internally available resources. The external assistance accounted for only 10 per cent of the funds spent on the Plan. The quantum of foreign aid for the Second Plan, from foreign governments and institutions indicated that India was successful in mobilising greater external resources than even the most optimistic estimates had suggested. India utilised 890.24 crores out of the total allocation of Rs. 1,409.22 crores. The amount of external assistance utilised from April 1961 to December 1963, i.e. first half of the Third Plan period was Rs. 1,194 crores as against the authorisation of Rs. 1,405 crores.

Foreign assistance may be grouped under three heads: loans, grants and United States P.L. 480/665 assistance. Loans amounted for 76 per cent of total aid during 1950-51 and 1979-80, but in contrast grants represented a small figure of 10 per cent and US Public Law assistance amounted for about 14 per cent. Among the various groups, Consortium members amounted for 86 per cent of total aid, USSR and other East European countries representing the socialist bloc amounted for 6.3 per cent and all other countries represented 7.7 per cent of total external assistance to India. In absolute terms, Rs. 5,677 crores worth of assistance was received from United States, as against Rs. 1300 crores from USSR and East European countries. Next in importance are the international institutions like International Development Association (IDA) and International Bank of Reconstruction and Development (IBRD), which contributed 21 per cent of total foreign assistance.

Aid Authorisation and Utilisation. Taking the entire 29 years period (i.e. 1950-51 to 1979-80) total aid authorised was Rs. 24,759 crores; whereas aid utilised during the period was of the order of Rs. 20,596 crores, i.e. 83 per cent of the total aid authorised. Some-

¹K. Raman Pillai, *op. cit.* pp. 116-20.

times lag between aid authorised and aid utilised is inevitable, but if sufficient advance preparation is made and procedures are simplified, it is quite possible to improve the extent of utilisation.

Problems of Foreign Aid. Various difficulties and constraints arise as a result of foreign aid. The most serious of these problems is the heavy and continuing dependence of India on other countries. There have been times when the country has not been able to resist the pressure exerted by the donor countries on planning and economic policy, not to speak of her internal and foreign policy. American influence can be seen in the shift in emphasis from capital to consumer goods industries and much greater reliance on private enterprise for industrial expansion. The US Government used stoppage of aid as a threat to the Indian Government in the Indo-Pakistani conflict in December 1971. More recently, the US Government decided in 1978 not to honour its agreement to supply nuclear fuel to Tarapur Atomic power plant.

Other difficulties may briefly be stated as : (i) The uncertainty of the magnitude and character of foreign aid which is likely to become available over a period of time. (ii) The absorptive capacity of a country depends on a number of factors. The most important factor which limits this capacity is the country's capacity to repay in future the loans currently contracted. (iii) Burden of external debt. During the period of the first three plans, total debt servicing was of the order of 686 crores. Prof. K. N. Raj points out the asymmetry of loans from Western countries and from USSR. In the case of the Western loans, they are extended and tied to the exports of India, but the repayments have to be made in foreign currencies. In the case of loans from the USSR, the aid is tied to imports, but repayment is tied to exports. Accordingly, he believes that loans from the USSR mean lesser burden than those from Western countries.¹

Politics Dominates Aid. A U.N. study on foreign aid and development notes that political and other considerations not related to needs have continued to play a major role in the policies of many aid-giving countries. Low-income developing countries including India and Bangladesh, have in general received disproportionately small aid. In this sense, the aid flows, notwithstanding their economic significance to the recipients, have contributed to widening the economic disparities among developing countries. The study says that countries with per capita annual income of less than \$100 with nearly

¹Ruddar Dutt and Sundharam, *Indian Economy*, pp. 261-67.

46 per cent (781 million people in 1971) of the combined population of all developing nations, received less than 23 per cent of the bilateral aid given by the industrialised countries between 1969 and 1972. India, which accounted for 32 per cent of the population of the developing world, received only 13 per cent of the bilateral aid and Bangladesh, with a share in the population of over 4 per cent, received less than 2 per cent of such aid.

If aid distribution were geared to the criterion of poverty or needs, the lowest-income group of countries would have received more than \$4 per head of population and the other income groups a progressively smaller amount, the study adds. The study emphasises the need to devise ways and means of not only increasing the flow of resources but also of bringing about a relative shift in the international flow of development finance in favour of low income developing countries. Calling for a "reorientation of the international aid policies" in the context of the serious external debt problem of the developing countries, the study says that official development assistance (ODA) should, by and large, be in the form of grants. Aid policies linked to the criterion of needs of the developing nations could materially help to make meaningful attack on the stubborn problems of poverty and under-development.¹

Other Criticism. 'Unfortunately we have made large use of foreign aid, and the dependence on it has been progressively increasing till recently. The proportion of foreign aid in the total resources used, which was 9 per cent in the First Plan increased to 22.5 per cent in the Second Plan and to 35.9 per cent in the three Annual Plans. As a result, the debt-service burden has become so heavy that the bulk of the gross foreign aid being received has to be utilised for meeting repayment obligations. It is encouraging to note that a bold attempt in this regard was initiated in the Fourth Plan.'²

The Fourth Plan talked of the spirit of self-reliance and postulates a declining net resource transfer. It visualized that by the end of the Fifth Plan (1978-79), the economy should generate a surplus of resources sufficient to cover interest charges on the foreign debt. This was an admirable perspective from the standpoint of self-reliance but one that forecloses the option of (a) raising total income faster than 5.7% per annum and (b) allowing per capita private consumption to

¹UN Review, *Times of India*, 22 Nov. 1975.

²A.N. Agarwal, *Indian Economy : Problems of Development and Planning*, p. 138.

increase faster than 2.6% per annum. The choice of the planners was probably based on a shrewd judgment regarding the outlook for foreign aid. The delay in replenishing IDA's resources and the acrimonious debate in the US Congress are straws in the wind. The United States seems to have become "aid-weary" even though the development journey of many poor countries in Asia and Africa is only half begun. These are the "long-haul" cases which are being given a distinctly short-run treatment.

If this is the shape of things to come, India will have to face the consequences as best as she can. The outstanding debt will level off at the end of the 'Seventies and begin its downward course thereafter. By the end of the present century we will have reduced our liabilities substantially. If, on the other hand, the present disenchantment with foreign aid proves temporary, we may witness another resurgence of foreign aid (and thereby external debt) allowing India, as well as other developing countries, the option of accelerating their rate of development. Perhaps the wise course of action in the light of the uncertainty surrounding foreign aid is to be prepared to live with a dwindling flow and at the same time to be fully equipped psychologically and in a policy sense to seize hold of opportunities for additional aid, should they arise.¹

IMF Loans. The Prime Minister firmly declared in the Rajya Sabha on 3 December 1981 that the country has not deviated from the declared policies while going in for the \$5 billion IMF loan. Intervening in the six-hour debate on the IMF loan, Smt. Gandhi asserted that the government was pursuing its declared policy of self-reliance and betterment of the poor and downtrodden. To dispel apprehensions, she reiterated that the government would not be dictated in the running of its economy by any agency or country. She assured the House that "nothing would be done that ran counter to the declared economic policies of the nation."²

'The Union Finance Minister marshalled his arguments well in defending the SDR 5 billion loan secured by India from the International Monetary Fund. It cannot be denied that India's balance of payments problems was threatening to become acute when the loan request to the IMF was made. Opinions may vary on whether borrowing on such a large scale was the only answer to the crisis.

¹Ravi I. Gulhati, 'India's External Debt', India Quarterly Jan.-March 1972, p. 10.

²Times of India, 4 Dec., 1981.

A stoic posture of fiscal self-reliance would have necessitated a measure of austerity, rather inconceivable in today's circumstances, and whittling down of the development programme. Also, from a purely commercial standpoint, the IMF loan is considerably cheaper than borrowing from the international capital market.' However, Finance Minister's reason for maintaining secrecy on the loan request was not very convincing. By and large, the terms, such as a policy of restraint on domestic credit and long-term external borrowings, export promotion, curbing inflation and reducing subsidies were in tune with the Government's economic and plan approach. Finance Minister's assurance that the public sectors supremacy would be protected was welcome.¹

¹Times of India, editorial, 4 Dec. 1981.

CHAPTER 28

External Relations and An Assessment of Foreign Policy

I. Relations With Pakistan And China

With Pakistan. India agreed to the creation of Pakistan with the hope that this would ease the communal tension ; but Pakistan continued its 'hate India campaign' with renewed vigour and religious fanaticism. Pakistani leaders deliberately whipped up war hysteria in their country by spreading fictitious stories of atrocities over the Muslims in India and suppression of Kashmir while the government and bureaucracy in Pakistan were directly responsible for the planned extermination of the Hindu minority in that country. Hatred for and feigned fear of India led her to preach the doctrine of Muslim brotherhood, with the aim of using the international Muslim community as a bulwark against India. She became a member of the SEATO and CENTO and also entered into a Treaty of Mutual Assistance with the USA in 1954. Pakistan's pledge to contain communism in Asia was only a camouflage to hide her aggressive designs against India and in securing American weapons for that sole purpose.

Pakistan was utterly dissatisfied with the Western powers, particularly with the USA when it could not achieve anything substantial as regards Kashmir. However, with the help of these powers, it tried to blackmail India through the forum of the U.N. But when all her attempts failed she waited for an opportunity, which the Indo-Chinese war of 1962 provided to Pakistan to make friendship with China on the logic that enemy's enemy could be a reliable friend. Thus Pakistani leaders went to China with the anticipation of procuring Chinese help against India for which China was ready. Chinese army officers came to Pakistan to give military training and to teach guerilla war tactics to the Pakistani soldiers. Thus the American policy of helping Pakistan to contain communism was shattered to the ground; but even

then the Western powers did not seem to be much worried about this new development. The Ayub and Bhutto regimes in Pakistan followed the same course adopted by their predecessors, by sending armed infiltrators into the Valley in the first week of August 1956. It hoped that the Muslim population in the state would rise in revolt and render all possible help to the Pakistani infiltrators, but their hopes did not materialise and their plans failed. When the war took a serious turn, the Pakistani President, F.M. Ayub Khan, proclaimed that his country was at war with India. However, Pakistan's military might was totally crushed in just three weeks' fighting and she sent out frantic calls for help and mediation. The Soviet Prime Minister offered his good offices and the Tashkent declaration was signed by the Indian Prime Minister and Pakistani President on 10 January, 1966.

The Tashkent Declaration did not normalise Indo-Pakistani relations, beyond restoring some of the links. Except on the question of disengagement of troops and their withdrawal from each other's occupied areas, Indo-Pakistani attitudes towards each other continued to remain as before. Prime Minister, Smt. Indira Gandhi's desire for "close economic cooperation with Pakistan" expressed in February 1966 went unresponded and India's lifting of ban on trade with Pakistan remained purely unilateral. From March 1966 complaints against the violation of Tashkent Declaration started. India protested against its violation by Pakistan and Pakistan similarly accused India of such violations. There were several cases of expulsions of each other's diplomatic staffs as well.

Pakistani pursuit for procuring arms from the US and China continued and from July 1968 it succeeded in getting arms from the Soviet Union as well. All this generated considerable heat in Pakistan's relations with India, because the latter viewed them with grave concern. China and Pakistan signed several agreements and also built two roads linking Gilgit (in Pakistan occupied Kashmir) with Sinkiang. India protested against the construction of these roads, because these were related to the problem of Kashmir. Further communications between the two countries for normalisation of their relations proved infructuous because of their inflexible position on Kashmir. War bogey against India continued to be raised in Pakistan.

After the massive victory of the Awami League of Sheikh Mujibur Rahman in December 1970 polls in Pakistan, some hopes of Indo-Pakistani relations revived, because Sheikh Rahman and his party were the only elements in Pakistan which had desired normal relations revived with India. But there arose a constitutional crisis

in Pakistan, leading to the military crack-down over East Pakistan and declaration of independence by it under the name of Bangladesh on 26 March 1971. The Government of India had to take about nine million refugees from East Pakistan (Bangladesh), who had fled to this country in order to save their lives from the West Pakistani reign of terror.

On 15 June 1971, Prime Minister Indira Gandhi declared that India would not let Bangladesh die, and on 3 September she added that it was not possible for any power to suppress or crush the movement in Bangladesh. All these developments brought Indo-Pakistan relations to their lowest point. Then followed a brief war between India and Pakistan on the issue of Bangladesh. This had far-reaching consequences for the Indian sub-continent and also changed the power structure of the sub-continent. New Prime Minister Bhutto of Pakistan accused India of aggression, intransigence, insolence and hypocrisy. But Smt. Gandhi's attitude was more discreet, calm and composed in her public utterances. However, an agreement on bilateral relations between the two countries was signed on 2 July 1972. In order to achieve the objective of putting an end to the conflict and confrontation, the Governments of India and Pakistan agreed: (1) That the principles and purposes of the UN Charter shall govern the relations between the two countries. (2) That the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by other peaceful means mutually agreed upon between them. (3) That the pre-requisite for reconciliation, good neighbourliness and durable peace between them is a commitment by both the countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs.

After the humanitarian problems were solved as a result of the tripartite agreement, it was expected that the minor irritants would be removed and the process of normalisation completed, but on India's success at the detonation of a nuclear device Pakistan relapsed into anti-India tirade. After the Janata Party came to power there were some apprehensions that the process of normalisation which had been set into motion so assiduously by both the countries in spite of certain global and regional constraints, would be thwarted. But the Indian Foreign Minister assured Pakistan that the process of normalisation would be strengthened further;¹ and there was some improvement in

¹See Surendra Chopra, *Studies in India's Foreign Policy*, pp. 490-504.

the relations between the two countries. Early in June 1981, India's Foreign Minister paid a good-will visit to Pakistan. Talks between India and Pakistan during the visit to that country ended on a happier note than those in July 1980 when Pakistani Foreign Minister described the talks as 'frank and constructive'.¹

In a closely-argued critique of Pakistan's foreign policy, Ghulam Mustafa Khar, Governor and later Chief Minister of West Punjab in the 1970s (now living in London) advocated a closer relationship with India, short of accepting its hegemony in South Asia, as the only credible strategy for preserving Pakistan's national security and territorial integrity.² But there was no let-up in the downward trend in Indo-Pakistani relations. On the contrary things worsened in the first week of November 1981 when Gen. Zia not merely refused to accept the line of control in Jammu and Kashmir as an international boundary but also ominously declared that he would "never allow this to happen". In the meanwhile, Pakistan had put forward a "no-war pact" offer to India and India's response made on 25 November was positive on the basis that India stood by 1949 no-war pact offer made by it and repeated by it on several occasions.

A grave development during the period was that Pakistan sought military aid from the US on a huge scale and the American Government readily agreed to give. This created serious apprehensions in the minds of Indian leaders about the real intentions of Pakistan. Commenting on Pakistan's offer Times of India said ; 'Except in name, a no-war pact already exists between the two countries in the form of the Simla Agreement. Why then President Zia asked for another no war pact ? 'One obvious answer is that he wants to meet the Indian charge that Islamabad will one day use the military hardware it is acquiring from America against this country and thus to silence critics of the Reagan administration's policy of rearming Pakistan in the U.S. Congress and media. Indeed, it is possible that some one in Washington has asked him to resort to this ploy....We should try to find out if President Zia is trying to eliminate the Simla Agreement as the framework for determining the relations between India and Pakistan.'³

While India feels that US military aid to Pakistan may be used against India, this much is certain that this would hit the process of

¹Times of India, editorial, 12 June 1981.

²B.K. Joshi, 'Amity with India only Choice for Pak : Khar', Times of India, 1 Nov. 1981.

³Times of India, editorial, 4 Nov. 1981.

normalisation of relations between the two countries. Further, it may also endanger Pakistan's integrity. 'A close military alliance with the US will at least obstruct the restoration of democracy and justice in Pakistan and could even pose a danger to the very institutions of the country,' said the Pakistan Committee for Democracy and Justice. A Soviet writer said : 'As for Pakistan itself, its rulers seem to have learned nothing from the lessons of the past when the country was involved in military blocs. They have also learned nothing from the history of Iran under the Shah.' The Congressional study mission which visited Pakistan and India, in November 1981, expressed the view that given the highly emotionally charged animosity between Pakistan and India and other political factors, the proposed military aid package for Pakistan could turn to the disadvantage of United States.¹

With China. Soon after the People's Republic of China was proclaimed on 1 October 1949, the Government of India extended official recognition to it on 30 December 1949, India being the second non-communist country to do so. Indian delegation to the UN moved repeated resolution in that body urging that People's Government should represent China in the UN. There was exchange of state visits by the Prime Ministers of the two countries and the interchange of numerous cultural delegations. Another indication of India's desire to be friendly with China was voting against a resolution, in the UN General Assembly branding the People's Republic of China an aggressor in Korea. India also declined to attend the conference convened at San Francisco in 1951 to sign a peace treaty with Japan because among other reasons China was not a party to it. Moreover, India gave up all extra-territorial rights and privileges in Tibet inherited from the British Indian Government and recognised Tibet as a region of China.

In a speech broadcast on 5 February 1957, from Calcutta airport, where he stopped on his way to China after visiting Afghanistan, India, Nepal and Ceylon, Chou En-lai said : "Each time we stay in India we feel as though we were staying in the home of kinsmen. This has enabled us to realise the brotherly friendship between the Chinese and Indian peoples. Vice-President Radhakrishnan visited China in September 1957. But China's response was unexpectedly different. Denzil Peiris says : 'Indeed, one of the basic flaws in Jawaharlal Nehru's perception of what the new China's attitudes to India would be was his belief that China and India would

¹Times of India, 2 Dec. 1981.

henceforth be Bhai-Bhai because of the two countries shared experiences. The first was a shared experience of colonial domination.... Nehru wrote in his *Discovery of India* : "After being cut off from each other for many centuries, India and China were brought by some strange fate under the influence of the British East India Company. India had to endure this for long; in China the contact was brief, but even so it brought opium and war." The second was India's cultural contribution to China through Buddhist missionaries and the journeys of scholars. Yet Chinese politicians have seldom admitted this debt.¹ Nehru emphasised common interests rather than conflicting national interests which could disrupt the wider solidarity.

China took the view that since the peaceful liberation of the Tibetan region of China in 1950, several reactionaries had fled from Tibet to the Kalimpong area in India and in collusion with special agents of the Americans and the Chiang Kai-shek clique had been carrying on subversive activities against the region. At the end of 1956, on his visit to India, Chou En-lai called the attention of the Government of India to this question. Nehru indicated that if the Chinese Government could produce evidence of this, India would take suitable action. Later, on 12 January 1958, Chou referred to this question again. In reply, the Government of India said it had no evidence that the US Government and the Kuomintang regime were using Kalimpong as a base for disruptive activities against Tibet.² There was another reason for China's charge; it was troubled by civil dissensions in Tibet and was highly nervous of unrest and dissidence among its minorities.

When J.L. Nehru visited China in late 1954 he brought to Chou's attention some Chinese maps showing a wrong alignment of the border, the latter only pleaded that those were old ones, which could not be revised. All this made Nehru think that there would be no major dispute, but he was greatly disturbed by increasing incidents of Chinese intrusions. After serious clashes at Longju in Arunachal Pradesh, he told the nation for the first time about the growing tension in the Himalayas. Nehru was shocked by Chou's letter of 8 September 1959 in which he laid claim to extensive territory which India believed indisputably fell on its own side of the international border. In this background Chou En-lai visited New Delhi in April 1960 and

¹Denzil Peiris, '*India and China : Neighbouring Giants*', *Illustrated Weekly*, 11 June 1978, p. 14.

²Arora and Appadorai, *India in World Affairs ; 1957-58*, pp. 50-60.

a mutual adjustment of the border claims. The relations between the two countries deteriorated rapidly after Chou's return. The result was border war between India and China in 1962.

Another factor which made China view India's stand on the border dispute with misgivings was the fall-out of the Sino-Soviet rift. Peking strongly protested against the Soviet refusal to condemn India for the border incidents not only as a blow to the solidarity of the International Communist movement and consequently as a serious ideological lapse but also as a sign that the Soviets and Indians were trying to gang up against it. Peking was also perturbed by the Indo-Soviets Treaty of Friendship, 1971. New Delhi tried to reassure the Chinese that Indo-Soviet Treaty was not aimed against them and that it still considered Taiwan a part of China. It also expressed its readiness for a dialogue with China, without any pre-condition. It was after a lapse of 14 years that both the countries agreed to exchange ambassadors, i.e. in 1976. Prime Minister Morarji Desai said on 16 March 1978 that India would resume normal ties with China only if the border question was resolved. At the invitation of the Chinese Government Indian Foreign Minister visited China in 1978, but it did not lead to any more improvement in relations between the two countries. New Delhi and Beijing expressed the desire to improve bilateral relations and talks were held between their representatives in 1981.

'It would be realistic for both sides to acknowledge the limits to the amity they can achieve. Their regional and global perspectives are different, their interests are not identical, the history of their relationship over the last 20 years which has conditioned where and how they stand today, cannot be wiped out, and their apprehensions about who or what threatens their security and how these threats should be faced vary vastly. Within these constraints, a Sino-Indian rapprochement would benefit both countries a great deal and, since they are such major nations in terms of population, size and potential, the world as well.'¹

Although China and India made no substantial progress in the latest round of talks held in China in January 1983 on their frontier dispute, the two sides "got to the heart of the matter". This was unlike previous meetings when delegations merely "presented their positions but did not touch on any concrete approaches to a solution

¹A S. Abraham, '*Towards a Rapprochement ; Limits to Sino-India Amity*' Times of India, 18 December 1981.

of the issue." China and India will continue to seek a fair and reasonable solution to the boundary question although the third round of Sino-Indian talks yielded no substantial progress on the issue due to differences in positions. It was agreed that another round of talks between Chinese and Indian officials would be held in New Delhi.

II. Relations With Other Asian Countries

With Japan. The Prime Ministers exchanged visits in 1957. Many delegations—economic, trade and cultural—were also exchanged to strengthen the ties of friendship. As a result, there was better understanding and trade and economic relations increased. The year 1958 marked a substantial increase of cooperation and understanding with Japan in all fields. Nehru sought Kishi's cooperation in developing a climate favouring a top level conference between East and West to resolve their differences and thus pave the way for world peace. On his visit to Japan in 1957, Nehru showed keen interest in its industrial development and sought close economic relations between the two countries. The Indo-Japanese Peace Treaty, 1952 had provided for certain privileges to be naturally accorded in respect of trade, shipping and aviation. The two countries signed a trade agreement on 3 February 1958. In July 1977, the Foreign Minister of Japan visited India. He was confident that his talks with the Foreign Minister of India would prepare the ground for closer and meaningful bilateral cooperation between the two countries. He also announced that Japan would never fail to make its contribution to the economic development in India. Indian Prime Minister again visited Japan in July 1982.

With Nepal. Close cultural and geographical affinity ensured friendly relations between India and Nepal. To strengthen the bonds of friendship, the two countries signed a treaty in July 1950...Although relations were cordial at government level yet Opposition political parties in Nepal indulged in anti-India trade. The presence of an Indian military mission (1951-58) and India aided projects for economic development were grist for the propaganda mills of disgruntled politicians. The mission was in Nepal at the invitation of the Nepalese Government to reorganise the royal army. The periodical visits of top officials and political leaders of each country to the other served as a public demonstration of the close and friendly relations both Governments desired.

Such relations were all the more vital after the Chinese pressure for direct contact with Nepal increased. Initially Chou En-lai assured the Prime Minister of Nepal that China would never do anything

“behind India’s back”. China and Nepal signed a treaty regarding Tibet on 21 September 1956 ; and Nepal recognised China’s sovereignty over Tibet. Dr. K.I. Singh, who had been in exile for 6 years, in China, became the Prime Minister of Nepal in 1957. He strongly denied at a press conference reports that he was a communist and attacked Tanka Prasad Acharya’s policy as pro-communist and anti-Indian. In the course of time, the differences between Acharya and Singh became more clear. Acharya’s policy was to improve relations with China to counter Indian influence in Nepal, whereas Singh opposed close ties with China and severely criticised Acharya’s visit to Peking.¹

The Government of India then realized that its old policy towards Nepal was inadequate to meet the new developing situation and political climate. The new policy influenced the actions of the Nepalese Government to a great extent ; and a new awakening in the foreign policy of Nepal towards India warmed their relations during the early sixties. Continuous efforts were made by both Nepal and India to achieve near normalcy in their relationships. Some vital factors, both external and internal, weighed with Nepal in bringing about this change. These included the fear of China from the north along with concentration of Chinese troops on the Nepal border, incursions of Khampa refugees from Tibet and their prejudicial activities, the publication of Chinese maps in 1963 showing parts of Nepalese territory, the deeper impacts of Sino-Soviet ideological conflict, and popularity of the Soviet as against the Chinese stand, etc. But there was again a rapid escalation to tension in the region when the Indian Foreign Minister visited Nepal in November 1981. He cautioned the countries of the area against becoming a cat’s paw in the game of great powers, and reiterated his country’s commitment to remain on guard against elements, both within and outside, which tended to disrupt Indo-Nepal friendship.

India and Nepal decided to set up a ministerial-level joint commission to further promote economic co-operation. This was announced by the Prime Minister of Nepal, at the end of the official talks between the two countries during his three-day state visit. Addressing a press conference, he said the joint commission would monitor, coordinate and expedite matters relating to the overall economic relationship between India and Nepal. The foreign ministers of the two countries would be the commission’s co-chairmen. The date

¹Arora and Appadorai, *op. cit.*, pp. 73-5.

of its first meeting would be finalised after mutual consultations. Replying to questions, the Prime Minister said it was in the context of promoting joint ventures with India that the two countries had decided to set up the joint commission. He appealed to Indian industrialists to invest in Nepal. This, he said, would further consolidate friendly relations between the two countries.

Referring to the two rounds of talks he had with the Prime Minister, Mrs Gandhi, the Prime Minister of Nepal said they had detailed discussions on bilateral, international and regional issues. He said he was satisfied with the outcome of his visit. "Our agreement to expedite the Karnali Rapti and Pancheshwar river projects and to set up a joint commission are proof of the success of my visit," he told a questioner. He further said that during his visit he had received the impression that the feeling in India was that Nepal was dragging its feet on the river projects. This, he said, was a false impression. "Our need for development of water resources is greater than yours. India needs these projects for power generation but we need them for irrigation, increasing agricultural production and our economic development," he said.¹

With Burma. India and Burma, once a single political unit, enjoyed cordial relations; and Indian gestures of goodwill were greatly appreciated in Burma. But the plight of Indians in Burma continued, since Burma granted citizenship only to less than 4 thousand out of 40 thousand applicants. Indians were paid inadequate compensation when more than a million acres of their land was nationalised. They had also experienced difficulty in remitting money to their dependents in India. The Burmese Parliament passed the Immigration (Emergency Provisions) Act, 1957 and the Registration of Foreigners (Amendment) Act, 1957. These measures created further complications regarding settlement of other countries citizens in Burma. In a general statement on Indians abroad, Nehru said ; "They should always give primary consideration to the interests of the people of those countries, they should never allow themselves to be placed in a position exploiting the people of those countries, cooperate with them and help them, while maintaining their own dignity and self-respect." Under a financial agreement signed in New Delhi on 12 March 1957 at 4½% and repayable in 24 half-yearly instalments starting on 1 April 1960. Since then the relations between the two countries have been good.

With Sri Lanka (Formerly Ceylon). When Sir John Kotelwala

¹Indian Express, 5 Feb. 1983.

was Prime Minister of Ceylon (1953-57) relations between India and Ceylon were at a low ebb because the Ceylonese Prime Minister followed a foreign policy very different from that of Nehru. But with S.W.R.D. Bandaranaike's assumption of premiership in April 1956 relations entered a new and favourable phase. On many vital international issues at conferences as that on Suez in London and that of Colombo Powers in New Delhi (November 1956), the two countries endorsed each other's point. India agreed to participate in the Buddha Jayanti celebrations there. The Prime Ministers exchanged ideas on international developments and bilateral relations. In the U.N., too, Ceylon and India worked in close cooperation.

The most complicated problem, however, concerned the people of Indian origin in Ceylon. They had enjoyed equal rights with those of Ceylonese origin under the British, but had been reduced to the status of second-class citizens after Ceylon became independent. An agreement signed between Nehru and Kotelwala in 1954 stipulated speedy and expeditious registration of all residents in different categories and separate electorates for those registered under the Indian and Pakistani Act. Persons whose citizenship applications had been rejected were to be induced by the Ceylon Government to register as Indian citizens, and the Indian Government was to provide facilities for their registration as Indian citizens.¹

There is no denying the fact that Sirimavo-Shastri Pact was a landmark in the realm of Indo-Sri Lanka relations, but its implementation has remained beset with many hurdles. This is evident from the fact that till 1970 very little headway had been made regarding the grant of citizenship by both countries, especially Sri Lanka. The issue of citizenship continues to affect their relations adversely. There is one other factor, which assumed importance in 1981. The Tamil population of Sri Lanka has been pressing for the grant of separate statehood (Eelam), on account of which it has been subjected to great oppression. The people of Tamil Nadu, in particular, felt great sympathy for them and warned the Government of Sri Lanka. One redeeming feature was the last visit of the President of India to Sri Lanka, after which normalcy was established in that country.

With South-East Asia. India played an active role in bringing about peace in Indo-China. The Geneva Agreements provided for three ceasefire agreements in respect of the three states of Vietnam, Cambodia and Laos. To supervise and control the armistice agree-

¹Arora and Appadorai, *op. cit.*, pp. 86-89.

ments, three International Commissions for supervision and control were set up. They were composed of representatives of Canada, India and Poland, with India as Chairman. India's support to Cambodia in its troubles was moral. India, through the International Commission in Laos, tried to restore the provinces of Sam Neua and Phong Soly to the Royal Laotian Government. The Commission continued to insist that the Laotian Government try to reach a political settlement with the Pathet Lao in the firm belief that this method would lead to an overall peaceful settlement in the kingdom. India's role as Chairman of the International Truce Supervision Commission for Vietnam was greatly admired by North Vietnam and Hanoi gave all cooperation to the commission. In September 1957, Dr. Radhakrishnan, Vice-President of India paid an official visit to South Vietnam. India was sensitive to military pacts. An assurance from Diem that "Vietnam accepts neither foreign military bases nor foreign troops on its territory and it is not considering adherence to any military alliance", satisfied the Indian Government to some extent.

Malaya and Singapore. The emergence of the Federation of Malaya as a sovereign state on 31 August 1957 was widely acclaimed in India. At the 12th session of the U.N. General Assembly, Krishna Menon expressed happiness at Malaya's becoming a member of the organisation. In April the same year, Singapore attained internal self-government. The Indian Government whole-heartedly welcomed this development. Although Malaya did not join SEATO, or any other bloc it generally toed the British line in foreign affairs at the UNO. It did not follow India's lead in espousing non-alignment. India approved Malaya's membership of the Commonwealth and its acceptance of a military alliance with Britain. There has been an all-round cooperation between the two nations. The Federation of Malaya came out openly in India's support during the Sino-Indian conflict.

Indonesia. After the Bandung Conference (April 1955), of which Indonesia was the host country, the ties of friendship between India and Indonesia were strengthened further. Although Indonesia did not take sides on the Kashmir question, its friendship with India gave a fillip to India to maintain an equilibrium in its relations with the Muslim countries of West Asia. Both countries followed a policy of non-alignment and adhered to the principles of Panch-sheel. India and Indonesia acted for years in close cooperation on many issues at the UN. 'But India's cordial relations with Indonesia also gave way to increasing antagonism. The deterioration in India-Indonesia relations was due to their differing world views. While Nehru maintained that

priority must be given to bring about union and thus pave the way for peace and disarmament, Sukarno wanted to intensify the struggle against colonialism and imperialism. At the first Non-Aligned Conference in Belgrade in 1961, Nehru emphasised that the threat to world peace and security should receive the attention first, Sukarno disagreed with Nehru and pointed out that the source of international tension was the conflict between the "new emerging forces" of freedom and justice and the "old established forces" of domination and exploitation. Sukarno was encouraged by China in his adventurist tactics which finally led Indonesia's support to Pakistan in the Indo-Pakistani conflict of 1965.¹

With Afghanistan. India and Afghanistan were traditional friends. To strengthen further the ancient ties which existed between them, they signed a Treaty of Friendship in 1950. Because of the tension between Afghanistan and Pakistan, India was continually charged with intriguing secretly with Afghanistan and pressuring the Government to adopt an unfriendly attitude towards Pakistan. Nehru said in a statement in this connection : "I regret to say this is one of the numerous things without foundations which emanates from Pakistan." Indo-Afghan land borne trade was facilitated by cheap and convenient means of transport. The two countries entered into a Treaty of Friendship and Commerce in January 1952. Afghanistan approached India in 1958, to formulate a definite procedure to facilitate the transit of goods between Afghanistan and foreign countries through India. This was finalised to the satisfaction of both the countries.

Afghan President Mohammed Daoud paid an official visit to India in March 1978. The joint communique, issued at the end of the visit, stated that the two countries had agreed to strengthen and widen bilateral cooperation in economic, technical and commercial matters. The re-emergence of super-power politics in West Asia since 1978, the Soviet Union's armed intervention in a traditionally neutral country—Afghanistan—and the US decision to rearm Pakistan have created a genuine feeling of concern in India. The Soviet Government justified its action on the plea that the Afghan Government had made a "pressing appeal to the USSR for urgent political moral and economic assistance including military aid on the basis of a year old Soviet Afghan Treaty."

¹V. Suryanarayan, '*India and South-east Asia*', India Quarterly, July-Sep. 1978, pp. 269-70.

The US decision to rearm Pakistan had been viewed with much concern and apprehension by India, Bangladesh, Sri Lanka, Nepal and other countries of the region. India has disapproved of the super-powers' move to seek military solutions to international problems. New Delhi had conveyed its deep concern to Moscow because of its apprehension that the Soviet action in Afghanistan might have adverse consequences in the entire region. 'Thus, it can be said in the wake of Afghanistan crisis, with the US and China's decision to dump armaments in the Indian sub-continent and the American-Iranian relations showing no signs of improvement, the South and South West Asian region can become a hotbed of big power rivalry.'¹

With West Asia and Israel. When the question of admitting Israel's application for admission to the UN membership in the agenda of the third session of the General Assembly, was taken up both India and Pakistan voted in favour of its inclusion. But India did not accord recognition to Israel, because it wished to have the continued friendship and confidence of Arab states and the Government had to keep in mind the sentiments of Indian Muslims. However, the Government of India decided to accord recognition to Israel in 1950. A representative section of the Indian press welcomed India's belated decision. The initial reaction of India to Israel's attack on Egypt in 1956 was marked by condemnatory statement. India's opposition to Israel's right of passage through the Gulf of Aqaba was in a legal frame of reference. India earned a good name in the Arab world for its role in the Suez crisis in 1956. The majority of Arab leaders assumed that India would always support the Arab cause. But this was contrary to the considerable volume of public opinion in India, which was for establishing cordial relation with Israel. After the cease-fire, the Indian forces in the UN Emergency Force in the Gaza strip and along the international frontiers between the two countries were helpful in maintaining peace.

India has deep sympathy for the Palestine refugees and has whole-heartedly supported the continuation of relief and rehabilitation work by the UN in Palestine. Faced with an acute shortage of foreign exchange, the Indian Government continued to give grants-in-aid to societies engaged in promoting such relations. India also developed closer relations with the UAR (Confederation of Egypt and Syria formed in February 1958). During his visit to Syria in June

¹Kulwant Kaur, '*Recent Developments in Afghanistan and Its Impact on India's Security*' in Surendra Chopra's *op. cit.*, p. 297.

1957, Nehru said that India and Syria followed identical foreign policy of non-alignment. When monarchy was abolished in Iraq (July 1958), India recognised the new regime, as Nehru considered the military coup an indication of growing Arab nationalism. The Indo-Iranian Treaty of Commerce and Navigation signed in December 1954 came into force after ratification only on 10 May 1957.

However, the policy of Indian Government to hold itself quite aloof, or as much as it could, from the Arab-Israeli conflict continued for some more time. During the Indo-Chinese war of 1962, it was expected in India that Israel would extend its support to India; but these expectations were belied. That the Arab states did not have the capacity to help India materially was clear to India but what piqued India most was that while India went all out to support them during the Suez crisis and continued to give them blanket support on such questions as rights of Palestinian refugees, the like-minded Arab states, particularly the UAR, Syria and Iraq were the most objective spectators during and after the India-China armed conflict. Whatever the factors, the Government of India was able to convince critics at home that maintenance of *status quo* was the best thing to promote Indian interests in West Asia and Arab Africa. The policy of Indian Government towards Israel under Smt. Indira Gandhi's stewardship has been a continuation of the policy pursued by the previous Government. As it is, the Indian support for the Arab *vis-a-vis* Israel has been taken for granted although indefensible in the eyes of the critics.

Though on 8 October 1973, Egypt and Syria took the initiative in attacking Israel, India supported the Arab cause as she felt their action could not be termed as aggression, because Israel had provoked the war by not adopting a more flexible attitude in negotiating peace settlement. Declaring India's sympathies with the Arabs, it further said that Arab cause was based on justice and demanded "immediate implementation by Israel of UN resolution of 1967 for peaceful solution of the problem. Smt. Gandhi gave two reasons for total sympathy with the Arabs : (1) India's old and solid relations with Arabs required India to stand by its friends in the time of their travail; and (2) Israel's refusal to vacate the Arab lands occupied in 1967 war and its refusal to honour UN resolution.

In his first policy statement in the Lok Sabha on 29 June 1977, India's Foreign Minister said : "With...the entire Arab World, we shall not only continue to seek to maintain cooperation. We have assured the Arab world that we shall continue to lend our full support for a just settlement of the West Asian problem based on UN resolu-

tions which require the vacation of Arab territory.¹ In April 1982, Smt. Gandhi paid a visit to Saudi Arabia and described her visit as "very successful". Three points deserve mention in this regard : (1) Smt. Gandhi did not modify her position on Pakistan. (2) The Joint communique noted India's efforts to improve relations with Pakistan. (3) Smt. Gandhi's presentation of the position of the Muslims in India should persuade the Saudis not to fall in for the malicious propaganda that has long been floating around the Gulf region.²

III. Relations with USA and USSR

With the United States of America (USA)

Introduction. On the eve of his two-day visit to New Delhi in January 1978, American President Carter said at a press conference : "India, as you know, is the world's largest democracy, with hundreds of millions of people. In the past, under Mrs. Gandhi, their primary orientation shifted towards friendship with the Soviet Union. I would like very much for the people of India, for Prime Minister Desai with whom I have a continuing correspondence, to know how much we value a restoration of those strong ties of friendship, trade, commerce with India."

In assessing Indo-American relations, we should not ignore the basic common values that both countries cherish. These are : (1) Both India and USA are secular democracies. (2) Both are wedded to the rule of law, freedom of the press and individual liberty. (3) Both cultures represent a synthesis of various cultures, races and religions of the world. Moreover, both countries are big; while the USA is bigger in area, India's population is two and a half times that of the USA. India is a kind of bridge between East and West Asia, between Central and Southeast Asia. America is a link between the Atlantic and Pacific regions and a link between Canada and the Caribbean and South America. At the same time, we should not overestimate these common values so as to ignore the national, regional and global interests and policies of each other.³

'Relations between the United States and India, both large and visible actors on the world scene, are and ought to be conducted on the basis of equality. This has not always been the case. In the past the United States took on itself a role of assistance and in some limited

¹See Surendra Chopra, *op. cit.*, pp. 328-31.

²*Times of India*, editorial, 22 Aprl, 1982.

³Indian Ambassador T.N. Kaul's speech at New Delhi's Indian International Centre on 4 Jan., 1974.

respects even tutelage in parts of the developing world. Such a role is today inappropriate to the period of national maturity in which India finds itself.' From this flow the following propositions : (1) The relationship between the US and India is one in which there is no significant conflict of interest. (2) Both the countries have interests in and major involvements with third countries.

Of course, economic affairs have figured importantly in Indo-American bilateral relations in the past. Over half of all external assistance to India—ten billion dollars, equal in value to 23 per cent of all investment undertaken in the Indian public sector in the first four Development Plans—came from the United States. Most of the important insecticides, drugs, and equipment used by India's Malaria Eradication Programme as well as a large share of costs of the programme in India were financed with U.S. loans and grants. U.S. assistance totalling 1,325 crores of rupees went to the development of Indian agriculture; and 1,950 crores to industry. One-third of all electrical power generating capacity available in India received U.S. assistance—some 650 crores for this crucial sector.

The provision to the Indian Government under the Food for Peace Programme of Public Law 480 of nearly five billion dollars worth of food and agriculture commodities, including more than 50 million tons of wheat, not only fed hundreds of millions, but put massive quantities of resources at the disposal of the Government of India. Of the ten billion dollars in American assistance to India, almost 70 per cent went directly to the Government of India to be used in the pursuit of public purposes. 'The United States is proud of the role it has played in under-writing the success of social democracy in India. It is not an exaggeration to say that the United States made available a substantial part of the resources that have financed Indian democratic socialism over the past two decades. We did so consciously and willingly, and we applaud India for the success it has made in this venture. We ask only for some understanding of our role.'¹

Basic Difference. Soon after the Second World War ended, America started seeing Red everywhere. John Foster Dulles, the Secretary of State, was infuriated that India, the largest democracy in the world, did not wish to join the American crusade against Godless communism. Nehru's advocacy of non-alignment was another bone of contention, and Dulles had no hesitation in terming non-alignment

¹Daniel P. Moynihan 'Indo-US Relations', India Quarterly, Jan-March, 1974 pp. 6-8.

“immoral”. In a sense, America has never entirely divested itself of its suspicions about the non-aligned. With the gradual erosion of the sympathy and cordiality that marked Indo-US relations between the two countries have swung uneasily between mushy sentimentality and unmitigated hostility—determined not only by regional interests and the balance of power, but also by the personalities and perceptions of the different Presidents and Prime Ministers in power.¹

Once India showed itself unwilling to align itself with the US, the latter turned to Pakistan which, enthusiastically embraced that role. That American switch ensured that Indian and American regional and global interests did not and could not coincide. Even the 1971 war did not significantly reduce that fundamental divergence. The Afghanistan developments, especially the American reaction to them by way of giving Pakistan an enhanced role in the US strategy to counter the Soviet (and it further enhanced under the Reagan administration), do not expose India's stand as an obsession. Nevertheless for the Americans India has no real security problem (as they believe it never did). But since India feels differently, and rightly so, and since, ...it must rely on its own resources to defend its interests, it must of necessity follow a course that veers away from that the Americans and their allies, regional and global, must pursue.’²

Major Problems. There is a lack of synchronization in the strategic perceptions of Washington and New Delhi. This leads them to assess the international political military environment differently, to pursue different methods to meet threats to peace, to disagree on their respective security needs, and to express different opinions on third party conflicts. An illustration of discrepancy in perception and role is provided by a comparison of former Secretary of State Henry Kissinger's account of the Indo-Pakistan War of 1971 with an official Indian documentation of the same event. ‘Over the years, the United States’ threat perception from the Soviet Union led it to conclude an alliance with Pakistan and rapprochement with China. Over the same period of time, India's perception of threat from Pakistan and China led it to develop close links with the Soviet Union. The repercussions on US-India ties were inevitably harmful.’

The United States augmented its naval presence in the Gulf and Indian Ocean, offered to revive its 1959 bilateral alliance with Pakistan

¹N.C. Menon, ‘*India and America : The Turning Point*’, Hindustan Times, Sunday Magazine, 11 Oct. 1981.

²A.S. Abraham, ‘*India and the United States ; Basic Divergence of Interests*,’ Times of India, 21 Nov. 1980.

with \$400 million in additional military and economic aid, renewed its bases in Turkey, sent missions to seek new base rights in Oman, Somalia, Kenya, Egypt, and Pakistan, proceeded with stalled plans to enlarge the naval facilities in Diego Garcia, and called upon American youths to register for the draft. 'India's official response to the Afghan crisis flowed from past perceptions and patterns of foreign policy. Nehru's thesis that the Soviet Union was essentially a defensive Power, interested in securing its own borders, but not expanding into South Asia—unless provoked was widely accepted in India. So was his perception of US military activity in Asia as unnecessarily provocative of Soviet fears and inimical to Indian interests.'

India's atomic power station at Tarapur (TAPS) has become a monument to the ambiguities in US-Indian relations, co-operation and hindrance, confidence and mistrust. This state of affairs is only partly the result of different positions on the issue of international controls over all forms of nuclear power; it is also the consequence of the US Congress asserting its legislative powers against the executive in important areas of foreign policy. The construction of TAPS, on the basis of an agreement signed in Washington in August 1963, concretized a decade of US-Indian co-operation in the peaceful uses of nuclear energy. A clash of Indian and US interests on international controls over nuclear power re-surfaced with the final version of the Non-Proliferation Treaty of 1968 (NPT), having been in abeyance since the signing of the Partial Test Ban Treaty of 1963. India refused to sign the NPT, because it discriminated against the development of autonomous nuclear technology in Nuclear Weapons Powers (NWS), while failing to control the proliferation of weapons among the NWS, which by then included China. India's underground explosion of a nuclear device at Pokhran on 18 May 1974, triggered off controversy in the US and in Canada, on the policies and rules which should govern the export of nuclear plants, fuels, and processing technology.¹

US policy in regard to Kashmir has been pro-Pakistan. The US was able to get a US citizen nominated on the UN C 1 P; and with the exception of Czechoslovakia all other members of the Commission were under the US influence. The UNCIP played the American game of not only ignoring the core of India's complaint but the importance of freshly available facts as well i.e., the existence of

¹Surjit Mansingh, 'United States-India Relations: Problems and Prospects', India Quarterly, July-Dec. 1980, pp. 269-74.

regular Pakistan army on the Kashmir soil. The US attitude was equally unfriendly when other methods of mediation were put to use. The two Prime Ministers had made some headway to break the impasse in respect of Kashmir issue. 'The military pact made Admiral Nimitz, the Plebiscite Administrator, a persona non-grata in India, since he represented the armed forces of an ally of Pakistan; so did the pact make the American personnel serving as UN observers in Kashmir. Nehru rightly demanded the withdrawal of the American personnel from the UN Observers Group in Kashmir, because they could "no longer be treated as neutrals" and their presence there "appears to be improper."

Kashmir, because of its geo-strategic location, was an important factor in the US foreign policy. 'The US attitude changed a little when China attacked India in 1962. Personality factor also played some role. During Kennedy's regime, the American attitude was not so blatantly hostile. But as soon as Nixon took over, the basic determinants reasserted themselves and he outdid even Dulles and Eisenhower when the movement of the Enterprise to the Bay of Bengal was ordered and resumption of arms aid to Pakistan was initiated. Nixon administration also connived at the leakage of arms to Pakistan through its satellites in pursuance of their policy to keep their foothold intact.'

US military build-up in the Indian Ocean is the last major problem. 'The Indian ocean with its littoral and hinterland states has posed a serious question in the contemporary international policies ; the problem of keeping a strategic balance in the region ; the question of the freedom of navigation in international waters and protection of trade routes and sea-lanes ; the local and regional arms-race and tensions ; and the proposal to make the Indian ocean a "zone of peace". With the increased military build-up—both conventional and nuclear—India and other littoral states of the region are greatly perturbed about the possibility of keeping the Indian Ocean region as a zone of peace.'

The visit of Smt. Indira Gandhi to USA in July 1982 created a new atmosphere of friendliness and goodwill. While the White House described it as "friendly, relaxed, informative and constructive," Smt. Gandhi called it 'an adventure in search of friendship and understanding,' and Mr. Reagan saw in it an opportunity to reaffirm and

¹Surendra Chopra, 'US Foreign Policy in Kashmir', I.J.P.S. (Jodhpur), July 1978, pp. 135-43.

²B.S K. Grover, 'India and the United States of America ; Problems and Prospects,' I.J P.S. (Jodhpur), Jan. 1978, pp. 75-6.

strengthen Indo-US relations. But the US President did not yield any ground on arms aid to Pakistan or on declaring Indian Ocean a zone of peace. However, the problems that were till the other day considered insurmountable and were officially described as "major hurdles" and main irritants seemed to have disappeared in the air. Tarapur was no longer a problem. India was no more a "Soviet surrogate", and the Reagan administration was willing to fully support India on the IMF loan.

An agreement was reached on 29 July 1982 between India and the US on fuel supply to the Tarapur atomic power plant. It provides that India will use French nuclear fuel for Tarapur. The international safeguards that apply to Tarapur today will continue to apply under the new arrangement but there will be no full-scope safeguards. It was India's refusal to accept safeguards on all its atomic power plants that had led to US refusal to continue to supply nuclear fuel. India's position on this score remains unchanged. The agreement on Tarapur removes the main irritant from Indo-US bilateral relations and paves the way for greater understanding between the two countries. 'That the visit has been fruitful is borne out by the agreement over the Tarapur fuel issue and the broadening of mutual trade relations between the two countries. So far as foreign policy is concerned, it is no secret that there is a marked divergence of approach. The United States under President Reagan seems to be obsessed with containment where communism is concerned. ... India has made it clear once again through her Prime Minister that she immensely values Soviet friendship but that does not mean that she is in any way unfriendly towards America or the American people.'¹

It is not possible to suggest the basis of a durable Indo-US friendship, yet the following propositions can be made : (1) The US will need to show greater consideration for India's security and the Indian appreciation of its security needs. This consideration should influence US decisions on the nature and quantity of arms that are transferred to Pakistan and indeed to China as well. (2) The US should recognise that the success of the Indian effort to modernise within the democratic framework calls for sustained support from friendly quarters. (3) The U. S. should honour its commitments as in regard to the supply of enriched uranium for the Tarapur plant. (4) Washington must accept that India cannot and will not be a party to any anti-Soviet crusade, however strongly opposed it may be to specific acts of Soviet policy. This does not mean that the

¹Pioneer, editorial comment, 1 Aug. 1982.

U. S. must accept the Indian view of Soviet policy before the two countries can draw close to each other. Thus it should be possible for Americans and Indians to recognise the community of values and aspirations and not allow temporary conflicts to cloud their view of each other.¹

With the USSR. Diplomatic relations between India and the Soviet Union were set up on 13 April 1947. The two countries have consistently striven and continue to strive for the final and complete elimination of colonialism and racialism in all forms and manifestations. The common Soviet Indian striving for preventing a new war, and their dynamic cooperation in the international arena based on identity or closeness of their active stand on major world problems assume great significance in the deteriorating international situation today. Indian efforts for peace met with full understanding and support from the Soviet Union. Khrushchev said : "India is a peace-loving country, since she does not contemplate anything against us." The change in the attitude of the Russians and the rest of the communist bloc to India was due to their recognition of the genuineness of India's foreign policy of non-alignment. Until then non-alignment was considered a mere tactic, and there was also a feeling that India was not free from Western influence.

India and the Soviet Union tried to maintain liaison regarding developments in West Asia. There was a regular exchange of correspondence between Nehru and the Soviet leaders on vital issues relating to world peace. Nehru appealed to USSR and the USA on 28 November 1957 to end the arms race and the cold war, take the road of peaceful coexistence and settle disputes peacefully. However, there were a few occasions when India and the USSR differed substantially in the UN. For example, regarding UNEF in the Suez area, USSR reiterated the view that the Security Council was the only organ competent to establish UN armed forces and the creation of UNEF by the General Assembly was a flagrant violation of the charter. In confirmity with its views, the Soviet Union voted against a resolution which was supported by India. After the uprising in Hungary, the UN adopted several resolutions calling on USSR to withdraw its troops from that country to create an atmosphere in which free election could be held. When the General Assembly, in December 1958, adopted a 37-member resolution calling upon USSR and the Hungarian authorities to desist from repressive measures against the

¹Girilal Jain, 'Need for Mutual Respect,' Times of India, 27 July 1982.

people, India abstained from voting on the resolution.

On 19 February 1957, the Soviet delegate vetoed a resolution in the Security Council sponsored by USA and three other members, because the resolution incorporated most of Pakistan's suggestions regarding demilitarisation and sending a temporary UN force to Kashmir. Again on 16 November, the Soviet Union threatened to veto a five-power resolution in the Council, because it re-stated the earlier view. But at the last minute a Swedish amendment, which met to some extent the objections of India and the Soviet Union, saved the original resolution from veto.¹ There has been a marked consistency and identity of views between India and the Soviet Union towards the problem of disarmament all through the years. Imperialism and colonialism, the twin menacing forces responsible for spurring on arms race, have been unequivocally condemned by both the countries.² Both India and the Soviet Union have also sought to strengthen the UN by making it the forum to promote the cause of world peace and reduction of arms race.³

During the Indo-Pak war on the issue of Bangladesh in 1971, India and the Soviet Union signed a treaty of friendship. This was acclaimed by almost all sections of the people in India, though some Western commentators regarded this as a deviation from India's policy of non-alignment. Since then the bonds of friendship between the two countries have been very much strengthened. Of particularly great satisfaction is the constant upgrading and enhancement of the forms of cooperation including interaction in international forums. Even after the change of Government in New Delhi, Soviet Foreign Minister Gromyko's three-day visit to New Delhi appeared to have been a greater success than one had the right to expect in the circumstances. It apparently helped not only to avoid a possible souring of relations between the two countries but perhaps also to strengthen them. 'If this is indeed so, both sides can legitimately be proud of the achievement. For, it would be idle for anyone to pretend that a ticklish situation had not arisen between Moscow and New Delhi following the change of government in India.'³

A joint communique issued at the end of the week-long friendly visit of the Soviet Prime Minister (Kosygin) on 14 March 1979 said the two sides reviewed the situation in South-East Asia after the

¹Arora and Appadorai, *op. cit.*, pp. 171-81.

²Tapan Das, 'Indo-Soviet Cooperation for World Peace', *Times of India*, 12 Feb. 1980.

³*Times of India*, editorial, 28 Apl. 1977.

massive armed attack by China on Vietnam and considered it necessary to exert further efforts to strengthen peace in the Asian continent. The two Prime Ministers also signed a long-term programme of economic, trade, scientific and technical cooperation envisaged in the Joint Indo-Soviet declaration of 26 October 1977. During the visit the following documents were also signed : (i) agreement on cooperation in the field of medical science and public health; (ii) cultural exchange programme for the years 1979-80; (iii) protocol on the supply of agricultural machines and motor vehicles as a gift for the state farm at Suratgarh; and (iv) agreement on additional reciprocal deliveries of some commodities in 1979.

Soviet-Indian trade is steadily growing in scale. In India's exports to the USSR, along with traditional items—tea, coffee, jute and jute article, the share is increasing of manufactured goods, such as metal products, cables, accumulators, thermal blocks, instruments, garage, printing and other equipment, synthetic detergents, cosmetics, wool garments, cotton fabrics, sewing and handicraft articles. The Ranchi and Durgapur plants, built with Soviet assistance, manufacture metallurgical, mining, hoisting-and-conveying and other equipment on Soviet technical documentation. The products are exported to the U.S.S.R and third countries.

The USSR exports to India machines, equipment, complete sets for engineering plants, fertilisers, oil and oil products, newsprint and many other items necessary for India's economic development. In 1980 Soviet-Indian trade reached 700 million roubles—a nearly two-fold increase compared with 1975. During Brezhnev's visit to India in 1980 the two sides signed a number of documents. These included a joint Soviet-Indian declaration, an agreement on economic and technical cooperation; a trade agreement on economic and technical cooperation; a trade agreement for 1981-1985, a programme of exchanges in the field of culture, science and education for 1981-82 and an agreement on cooperation in cinematography.¹

'This is not all. Soviet help in India's defence capability has been substantial. There is no doubt that Soviet Union played a crucial role between the mid-1960's and the mid-1970's in strengthening and modernising our armed forces and defence production. This certainly increased our dependence on the USSR in matters of defence. Although in recent years India has achieved considerable success in its attempt to work

¹Arkhipov, 'The New Landmarks in Economic Relationship' *Times of India*, 12 December 1981.

towards greater independence through the expansion of its domestic defence industry, through diversifying its sources of arms supply and through producing sophisticated defence equipment under foreign licence, experts point out that India's main air and naval strike forces are Soviet acquisitions....Moreover, the majority of new acquisitions continue to be of Soviet origin.'¹

Indo-Soviet friendship has stood the test of time and was not in need of repair. Mrs. Gandhi's last visit to the USSR has, therefore, to be seen primarily in terms of reiteration and reinforcement of the close and comprehensive bonds between the two countries at a time when India is also turning to the West. To the package of economic and technological cooperation agreed to in principle in the protocol signed on the eve of Mrs. Gandhi's visit, has been added the Soviet offer of assisting in the setting up of a 1000 MW nuclear power plant. 'The close identity of views between the two countries on global issues is reflected in the joint declaration signed (but not yet released) by Mrs. Gandhi and Mr. Brezhnev. This covers disarmament and detente and regional issues of particular concern to this country like the increasing militarisation of the Indian Ocean and developments in West Asia, particularly the situation in Lebanon. While all this was predictable, the divergence of views as expressed in Mr. Brezhnev's banquet speech and subsequently in Mrs. Gandhi's address at a reception in her honour on India's attempts to normalise relations with Pakistan attract attention. The Soviet leader warned India against Pakistan's offer of no-war pact which he sees as a camouflage for Islamabad's plans to acquire more American weapons. Mrs. Gandhi, however, restated India's intention to persist in its efforts despite difficulties. The two sides also agreed to disagree on Afghanistan with Mr. Brezhnev asserting that the best hope now lies in direct talks between Pakistan and Afghanistan.'²

IV. Relations With Other Countries.

With the United Kingdom (U. K.). As a consequence of peaceful transfer of power by Great Britain to the popularly elected Government of India, the relations between the two countries continued to be good and Indian Government decided to become a member of the Commonwealth, Britain agreeing to drop the prefix British.'

¹Vijay Sen Budhraj. '*The Janata Party and Indo-Soviet Relations*', I.J.P.S., Jan-March 1978, p. 13.

²'*Red Carpet in Moscow*', Indian Express, editorial, 20 Sep. 1982.

During the critical months of October-November 1956, when Britain took military action against Egypt on the issue of the Suez Canal, India was allowed to play the role of an informal mediator both by Britain and Egypt. Harold Macmillan's appointment on 10 January 1957 as Prime Minister was welcomed by Indian political circles, as they believed that Indo-British relations would be fully repaired under the new regime. To strengthen the bonds of friendship, there were regular exchanges of officials and non-officials. Labour Party leader, Aneurin Bevan, visited New Delhi in March 1957. Addressing an informal meeting of MPs in New Delhi on 28 March he subscribed to the policy of non-involvement in power blocs for South-East Asia.

After the Suez crisis, Indo-British relations again entered a critical phase during the Security Council debate on Kashmir. India felt that the British attitude on this dispute was always partial, being in favour of Pakistan. Some critics in India demanded that India should leave the Commonwealth; but a section of British opinion sided with India. In January 1958, the British Prime Minister visited India. Before leaving New Delhi for Karachi, he told newsmen that he was looking forward to a "new and creative period of partnership and comradeship between India and Britain."

The British Government's economic aid to India till 1956-57 amounted to about Rs. 4 million through the Colombo Plan; British private investment in the same period was the largest of all private investments. India was dependent on Britain for the bulk of its military stores and equipment. Early in 1957, negotiations were completed between India and English Electric Company for the delivery to the Indian Air Force of 68 Canberra Jet aircraft. The cruiser *Nigeria* was handed over to Indian Navy in August 1957 and the Navy was also given four coastal mine sweepers in 1956-57. As a gesture of goodwill, Britain agreed to make available to India in 1958-59 a sum of \$16 million sterling.¹ Prime Minister Smt. Indira Gandhi arrived in London on 21 March on a five-day official visit aimed at cementing the relations between India and the United Kingdom. Mrs. Margaret Thatcher reviewed the world situation in general with main emphasis on economic aspects. Reference was also made to bilateral aid, multilateral aid through IDA and trade. Smt. Gandhi also expressed concern over the arming of Pakistan and said it was a threat to world peace.

With the Commonwealth Countries. India always considered the

¹Arora and Appadorai, *op. cit.*, pp. 126-34.

Commonwealth a bulwark of international peace and security. Nehru refrained from taking sides on the Cyprus issue. While Nehru favoured China's representation in the UN, the Australian Prime Minister spoke against it. The Commonwealth had for years been equally divided on the question of China's diplomatic recognition. The 11-nation Commonwealth Trade and Economic Conference held in Montreal (Canada) in September 1958, covered various aspects of economic and trade problems. President Rajendra Prasad opened the Commonwealth Parliamentary Conference in New Delhi on 2 December 1957; this was the first session of the Conference in an Asian country.

Ghana (formerly known as the Gold Coast) achieved independence on 6 March 1957. Nehru said that it was a matter of special rejoicing for India; and India recognised Ghana soon after it became independent. At the Commonwealth Prime Ministers' Conference in 1957 and at the UN, India and Ghana acted together and expressed identical views on important questions. However, India's relations with South Africa have always remained tense, on account of latter's policy of apartheid based on utter racial discrimination to which India is opposed. India and Canada have continued to be close to each other. By the end of 1956-57, India received or was promised Rs. 213.6 million as grants from the Canadian Government. Besides exchange of views at Conferences of the Commonwealth Prime Ministers, India had limited relations with Australia and New Zealand upto 1958. During the 1971 conflict the Australian position was in fact much more critical of Pakistan than of India, since it involved a very early recognition of Bangladesh as a separate state.

There are, however, two major points on which Great Power considerations affect Australian policy towards matters which concern India and Pakistan. The first is a 'zone of peace' in the Indian Ocean: the second is China's future place in Asian politics. The Australian Government's policy in mid-seventies was that there should be a zone of peace in the Indian Ocean, and that US plans for the extension of facilities on Diego Garcia should not be supported. This attitude, which Labour formulated before it took office in 1972 and persisted with, arose from Labour's traditional uneasiness about US military bases and its desire that Australia should stand well with Third World countries, particularly those in Asia and Africa. At the same time, the Government is committed to maintaining ANZUS, and is well aware that the technical improvement of the submarine and of nuclear missiles has made the oceans of the world a single arena for the

Soviet Union and the United States.¹

With France. Soon after the restoration of peace in Indo-China (April 1958) and the grant of independence to the Indo-China States, relations between India and France improved considerably. But there was some bitterness in India over French policy in Algeria, because India had championed the cause of Algerian independence all along. India was also concerned at the delay in the ratification of the treaty on the transfer of the French Indian settlements mainly Pondicherry, the formal Treaty of Cession, providing for *de-jure* transfer had been made on 28 May 1958. The ratification was delayed by a few months. An agreement for promoting closer economic and technical cooperation was signed between India and France on 23 January 1958.

Indian Prime Minister, Smt. Gandhi, visited France in November 1982. The Indo-French Declaration made at the conclusion of the visit said : 'The Prime Minister of India and the President of the Republic of France, sharing alike the concern over the aggravation of political and economic tensions throughout the world, noting that these tensions undermine the very foundations of international relations, convinced that India and France can, through increased cooperation reinforce the effectiveness of their respective efforts aimed at a new international order, declare : 'India and France reaffirm that they reject the conduct of international affairs based on fear, dominance and arrogance, on the use of violence and subversion, and on the disregard of the principles inscribed in the charter of the United Nations. They reaffirm their conviction that a world of many nations, beliefs and peoples must necessarily be a world of pluralism, tolerance and co-existence, with scope for different cultures to flourish without mental barriers or ideological exclusiveness.'² France has now agreed to supply fuel for Tarapur in place of the USA.

With West Germany. India was the first country to recognise the Federal Republic. Politics apart relations between the two countries had developed before 1957 in trade and industry. Some of Indian's national projects had secured generous help from West Germany industry in this period. Germany's continued division was as much distressing to India as to the German people. In December 1957 an Indian Government economic mission had discussions on credit from West Germany. In those talks India asked for and was promised a three-year moratorium on the 50 million still outstanding

¹ J.D.B. Miller, 'Australia and the Indian Sub-Continent', India Quarterly, July-Sep. 1975 pp. 273-74.

² *Times of India*, 18 Nov., 1981.

on the Rourkela steel plant which was being built by a West German consortium headed by Krupps. The trade agreement signed in 1955 was amended in 1957.

Recently, the German ambassador to India said : (1) Both our countries have had the bitter experience of partition and are faced with the problems of over-coming their aftermath. (2) Both of us have decided in favour of Federal systems and have been able to develop stable democracies during the course of the last 2½ decades ; (3) Between the years 1947 and 1950, both of us found our independences again. We shall never forget the fact that your country after attaining complete independence, was the first country which declared the end of a state-of-war with Germany, thereby taking up on the basis of equality friendly relations with the Federal Republic of Germany. (4) Both our countries assume an important position in their respective regions and in their wider spheres ; your country undoubtedly much more than ours. 'I believe that this should be an important starting point in order to promote still more mutual understanding. We hope to find ways and means in the near future of facilitating the entry into India of interested German investors, whose access to India should not be made too difficult.'¹

With South America. For some years there was a feeling that most of the states in South America merely followed US policy. In 1957-58, India was on the way to establishing cordial relations with these states. The President of India sent a message of greeting to the new President of Brazil. Similarly India deputed its ambassador to Rio De Janeiro to represent India at the installation ceremony of the President of Bolivia. Talks between the foreign minister of Chile and the Indian Prime Minister revealed a wide field of agreement on basic issues and a common outlook in international affairs. Chile, like India, opposed nuclear tests, although in the UN General Assembly it generally toed the US line. Generally, India and the South American countries had an opportunity to exchange views on world problems at the UN.

With Africa. India has always supported the cause of the Afro-Asian community and opposed colonialism in all forms. In 1955, Nehru said : 'One of the outstanding features of the modern age is this awakening of Africa. With that, all of us in this country have the deepest sympathy.' India's sympathy for the African countries was due to a similar historical experience of Western dominance. The

¹From a Speech by Dr. Dirk Oncken, Ambassador of West Germany at the Rotary Club, New Delhi, 30 June, 1977.

purpose of the All-African People's Conference, held at Accra in December 1958 was to discuss problems confronting the African peoples and to make progress towards "an ultimate Pan-African Commonwealth of Free, Independent, United States of Africa." India was swift in establishing ties after a few of these countries became independent. Diplomatic relations were established with Ghana, Nigeria, Tunisia, etc.

India sought to promote bilaterally and multilaterally, commercial and cultural ties with all countries in the African region, except those under colonial regimes. Because of the similarity of approach between India and African states on many international issues, they pursued nearly identical policies in the UN. India was among the nations which sponsored the admission of Tunisia and Morocco to the UN in 1956. After the visit of Emperor Haile Selassie to India in November 1956 relations between the two countries became more cordial. In 1958 there were 10 trust territories; the Trusteeship Council, of which India was a member in 1958, each year considered the reports transmitted by the administering authorities. India made its views on the administration of these bodies known through its representative.

General Amin's "economic war" against Ugandan Asians in 1972 revived the controversy over India's policy with regard to overseas Indians. It was recognised in responsible circles that after Independence India's relations with these communities and with the countries of their domicile had become a complex issue, especially in the context of African resurgence. As far as these people are concerned, they have preferred to stay on where they are rather than face uncertain prospects in India. In the meanwhile, the Indian Government has been encouraging the more affluent Asians to invest their resources in manufacturing industries through joint ventures to help African development and stabilise their own future. It also successfully negotiated with the Uganda Government to compensate Indians expelled by President Amin.

The Indian Government has also been encouraging joint ventures as a form of investment in building up manufacturing industries on a basis of minority participation as far as possible. Out of a total number of 265 such projects, 73, involving Indian participation to the tune of Rs. 56.30 crores, have been sanctioned for Africa. Of these, 17 have already gone into production and many are under various stages of implementation—nine in Kenya, one in Uganda, two in Zambia, ten in Mauritius, four in Nigeria. Indian equity participation in these projects is of the order of Rs. 7 crores, accounting for 16 per cent of

the total equity in overseas projects. About eight major turnkey projects have also been completed in various African countries, while power generation and transmission projects are under construction in Libya and Zambia. Political instability, non-availability of requisite finance, lack of marketing facilities and paucity of skilled and trained man-power are among the major constraints. Indian entrepreneurs in most cases have, however, undertaken the responsibility of training indigenous personnel so that they may eventually take over the management of the plants.¹

The availability of Indian technical and managerial know-how and the feeling that it can turn to India when it is in need is a source of considerable strength to Tanzania. Indian assistance in the petroleum industry provides an outstanding example of such politically inspired support. Similarly, the Fertiliser Corporation of India has conducted a feasibility study that will enable Tanzania to set up the largest ammonia and urea plant, south of Sahara, based on off-shore gas. Although small in comparison with the West, Indian economic collaboration with Nigeria is steadily growing. In government-to-government collaboration, India has undertaken to provide Nigeria with technical assistance and training in the fields of telecommunications, transport and trade. Rail India Technical and Economic Service (RITES) have been able to put the Nigerian railways in shape and an agreement was signed recently to put them under RITES management for a longer period.²

On the conclusion of the visit of Algerian President to India, both countries on 25 April 1982 agreed on the need to intensify efforts for speedy implementation of the UN resolution declaring the Indian Ocean as a zone of peace while expressing grave concern at the increasing escalation of big power military presence in the region. Expressing concern even the "dangerous situation" prevailing in the West Asia owing to the persistent policy of aggression followed by Israel, the two sides reaffirmed their full support and solidarity with the Palestinian people struggling for restoration of their inalienable rights.³

V. An Assessment of Foreign Policy

How far is it Democratic? 'While advocating the need for pro-

¹Shanti Sadiq Ali, *India and Africa*, Illustrated Weekly, 12 March 1978, pp. 14-7.

²Maya Chadda, *India's New Role in Africa, I and II*, Times of India, 22 & 23 Dec. 1981.

³Times of India, 26 April 1982.

vision of democratic control in India's constitution, we cannot but take cognizance of the fact that broadly speaking the ordinary run of the general public is irresponsible and ignorant. There is no limit to the harm that may be done to their own country and the country with which she is dealing by people who indulge in irresponsible or unbalanced talk. Some of the unwholesome effects of a full-fledged democratic control over foreign affairs can be minimised by a persistent policy aiming at educating the masses to the implications of foreign affairs. It is imperative that foreign policy should not, under normal circumstances, be made a matter for narrow controversy or party factions within the country.¹ In India the practice is that a copy of any treaty, after being ratified, is placed on the table of the House (Parliament).

But an outstanding feature, which may characterise Indian foreign policy as domestic, is that it has had the support of both the majority of Congress and many other political parties. This enabled Nehru to say at the 62nd session of Congress in 1957 : "I would say that India's present foreign policy would have basically been the same even if any other group had come into power in India. I have no doubt that this policy will remain even in future, because it has its roots deep in soil." The CPI at its 5th Congress held in April 1958 at Amritsar declared : "The Communist Party supports the foreign policy of the Indian Government and consistently works for strengthening it." Acharya Kripalani and other right-wing socialist leaders suggested that India should create a "third force" on the world scene a bloc of non-aligned and small nations, which would oppose the great power blocs." The Jana Sangh demanded more flexibility towards the west. Almost until the end of 1956 nobody in India spoke against the basic principles of the Government's foreign policy.² N.G. Ranga, Swatantra Party leader, correctly wrote in *Indian Foreign Affairs* in April 1958 : "India is today in the fortunate position that there is almost complete unity among all her political parties over her foreign policy. The Panchsheel approach towards international affairs is accepted by all."

Foreign Policy in Actual Practice. The two basic features of our foreign policy—non-alignment and panchsheel—led to satisfactory results for India. To illustrate : "Nehru's efforts to arrive at a peaceful settlement of the Korean question (1950) ; more especially the question of repatriating prisoners of war : the cessation of hostilities in

¹M.S. Rajan (ed.), *India and the International System*, pp. 171-77.

²Yuri Nosenko, *Jawaharlal Nehru and India's Foreign Policy*, pp. 216-19

Indo-China (1954) and India's participation as Chairman of the International Supervisory Commission in Vietnam, Cambodia and Laos ; the negotiated settlement regarding Pondicherry, a French colony in India ; and the plea for negotiation and settlement of the Suez dispute especially after the Menzies mission failed to produce a solution acceptable to the major parties. These initiatives show that India was vigorously pursuing its policy of helping reduce international tension. The large number of agreements India entered into with several nations between 1947 and 1956 of a cultural, economic, or political character testify to India's desire to be friendly with all nations. India consistently initiated efforts in the United Nations and elsewhere to promote the progress of dependent peoples to self-government, for example, by convening a conference in New Delhi (1949) to support Indonesia's struggle for freedom and supporting the achievement of independence of the former Italian and French colonies (1953-58).

It was due to the above initiative that the consensus of opinion among the nations of the world, excluding Portugal, came to recognise the right of all peoples to self-government. Similarly, world public opinion has with the exception of South Africa and Rhodesia, unanimously rejected racialism. Again, the realization had grown even before 1960, of the urgency of international action to aid the process of growth in the under-developed countries. Finally, Asian and African states participated increasingly in international councils. There were 29 member states from these continents in the UN on 31 December 1956 out of a total of 80 members. India can take legitimate pride in the fact that through the efforts of likeminded nations and its own, some of its foreign policy aims have been realised. 'It was also a distinct gain that by 1957 India's policy of non-alignment was understood better in both the communist and non-communist blocs than in 1947-48 and that several newly independent countries had followed India's line of thinking.' While public opinion in the West had always a pro-Indian side as well, it would be correct to say that before 1956, by and large, official and the bulk of non-official opinion in the West was suspicious of non-alignment. Official opinion in the Soviet Union was, on the other hand, clearly critical of non-alignment before the Bulganin-Khrushchev visit to India in June 1955.

Statements by the Soviet and US leaders in 1956 showed a distinct change : 'Report of the Central Committee of the Communist Party of the Soviet Union to the 20th Party Congress (14 Feb 1956) said : "The great Indian Republic has made a big contribution to strengthening peace in Asia and the whole world. The tasks confron-

ting the party in the sphere of foreign policy....are : To consolidate untiringly the bonds of friendship with the Republic of India, Burma, Indonesia . to support countries which refuse to be involved in military blocs." In June 1956, President Eisenhower of USA defended at a press conference the right of nations to be neutral. He remarked that a decision to keep clear of military alliances would be accepted as neutral and even prudent. Of the 29 Asian African states in the UN, 17 could be said to be non-aligned. They included besides India, Afghanistan, Burma, Ceylon, Egypt, Indonesia, Iraq, Nepal, Saudi Arabia, Syria, Tunisia, etc. It is clear that the concept of non-alignment had gained many adherents since India initiated it in 1946.¹

Criticism. Main points of criticism may be summarised as follows :

General. The Prime Minister's statement of foreign policy in terms of general propositions did not always apply to concrete situations. J.B. Kripalani, who made this criticism, illustrated it thus: the Prime Minister often stated that the balance of power was an out-of-date principle, and "under present circumstances solves no problems." It is absurd to say in the world today that war cannot solve any problems. He also referred to another general principle that under no circumstances should foreign armed forces enter a country where there was civil strife. Would this general, theoretical principle hold good, asked Kripalani, if a military coup in a country tried to dislodge a democratic government to go to the help of its neighbour ? Besides, foreign policy was not concerned only with the enunciation of abstract principles but also with the proper strategy and tactics. There was a third general criticism. Indian leaders often spoke as if theirs was the only country that stood for peace that indeed pioneered the world movement for peace. That was "arrogating to ourselves for all the people in the world wanted peace."²

Double Standard. Any good foreign policy must be a reflection of its home policy. It is claimed by the spokesmen of our policy that it is also a reflection of our internal policy which has truth, non-violence and unity of means and ends as its attributes. A lesson awaits us if we examine the difference. Our foreign policy is not the projection of our home policy. The party in power uses all means, all tactics fair or foul, to perpetrate itself in power. Here no moral approach is stressed. In international matters alone we stand for justice and fair-

¹Inder Malhotra, '*Thirty Years of Non-alignment*', Illustrated Weekly. 12 Sep. 1976, pp. 7-11.

²Arora and Appadorai, *op. cit.*, p. 286.

play. We enter into all sorts of pacts, all sorts of unholy alliances, to remain in power. Prime Minister Nehru was angry when Asians were by-passed by Western Powers, but at home he was used to snub people and dismiss them outright. While at home he wanted people to toe his line and to strengthen his hands, in the international field he decried such things in the US. 'So we have double standards—one for home and another for abroad. In fact, we conduct ourselves strangely. Other people are very good at home, we were good in foreign relations. Another big contradiction in our policy is our attitude to communism at home and abroad. Our prime policy maker hates local communism and commitments in India. To the same individual communism abroad is sacred and sacrosanct.'¹

Lery said : "In a concrete situation, the Indian Government has often condemned other nations for pursuing their national interests if in so doing they contravene Indian concepts of moral behaviour, and has rarely admitted any deviation of its own behaviour from moral rules. But other nations are quick to repay India in kind. India's weapon turned out to be a boomerang. And there is no difficulty in finding situations in which India, in pursuit of her national interest, finds herself obliged to use methods which she intensely disliked when employed by others." Illustrations : Nepal, Kashmir and Western Asia. India, understandably in terms of its national interest, after the liberation of Tibet in 1950, established a degree of Indian control over Nepal which made many Nepalese feel that they were a quasi-colony of India and they confronted many shocked Indians with the accusation of being imperialist.

Non-alignment. The most serious criticism to which non-alignment was subjected was : that in implementing it we often laid ourselves open to the charge that we were inclined more in favour of totalitarian countries such as the Soviet Union and China than of the democracies. Thus Frank Moraes said : "The complaint is often heard, and I personally feel it is legitimate, that in cases where we might have given the benefit to the democracies we have chosen to give it to the totalitarian countries.' Among the dramatic examples cited were the political developments in Hungary in 1956 and 1957. Similar was the case with regard to militarism. Attempts of Western countries to buttress their security through military alliances were denounced but no objection was raised to the first military alliance concluded in post-war Asia, that between Communist Russia and Communist China.

¹S.R. Patel, *Foreign Policy of India*, pp. 236-40.

Nor was militarism in North Korea and Indo-China interpreted as an integral means of communist policy as was done in regard to the West.

Panchsheel. Kripalani made two criticisms: it was born in sin and it had been blown up by those who promised to keep its principles. It was born in sin because it was enunciated in 1954 "to put the seal of our approval upon the destruction of an ancient nation (Tibet) which was associated with us spiritually and culturally. Secondly, Panchsheel was blown up, Kripalani thought, when the Soviet Union invaded Hungary. Thus China and the Soviet Union, which had subscribed to the five principles, had no qualms about breaking them when it suited their purposes.

Protection of National Interests. A.D. Gorwala told a meeting under the auspices of the Indian Council of World Affairs in New Delhi on 12 August 1957 that India's foreign policy was a disastrous failure because it had not protected the nation's interests. In the case of Goa, national interest, in his view, lay in incorporating it with the country. But India's foreign policy had failed to achieve that. In Ceylon, India's interest was to see that people of Indian origin became full-fledged citizens of the country, but that had not been achieved. Gorwala said that it would have been in India's interest if Tibet could have been an independent state. This inability was a failure of India's foreign policy. A.B. Vajpayee asserted in the Lok Sabha on 2 September 1957 that India's foreign policy had failed to protect national interests. He said: "We strode into the world to win friends for ourselves and to-day after all these years we find ourselves entirely stranded, friendless and alone....The attitude we adopted towards Egypt over the Suez Canal strained over relations with the British to near-breaking point. But has this in any way induced Egypt's Nasser to support our just stand in regard to Kashmir? The same could be said about Communist China."

Retrospect and Prospect

I. Criteria of Performance and Impediments

Competence for Satisfaction. Performance must be judged on the basis of its competence to satisfy the aspirations of the people and demands of the time. The operation of modern democratic polity in a complex and tradition-bound society gives rise to highly complicated processes of change and adaptation. It calls for re-valuation of problems and strains, the will and patience of the country's intellectual and administrative leadership. 'Problems of equality, pluralism and mass participation take on new meanings that have to be absorbed as part of the intellectual culture of the nation. In short, the study should be made of the performance of the political system in meeting the needs and resolving the problems generated at different levels of society.'¹ System's "*capacity to cope*" is a direct consequence of political institutionalization and its penetration at various levels; while the problems to cope come from other spheres—in judging the performance of the system, we have to answer the question: whether the system's capacity to cope is increasing or decreasing? We shall consider the performance of the system—its achievements and failures—in the three spheres: social, economic and political. But before we take up that, it would be useful to consider in brief the various impediments and challenges faced by the Indian political system.

Political Development. The salient feature of political development is that all traditional undifferentiated (unspecialised) systems in society are modified by modern ones. Karl Deutsch defines political modernization in terms of participation or mobilization. He suggests that modernization is dependent upon mass participation in the form of increased political decentralization. Emphasis on political participation as the key to political modernization is common among observers.

¹Rajni Kothari, *Politics of India*.

For social scientists, political development means democracy, political parties, urbanization, interest groups, a high level of literacy, representative government, industrialization, technological arena. In brief, political development signifies the capacity of a political system to sustain continuous growth. 'Leaders of the new nations must minimize inequalities by adapting the political system to the demands of the expectant public and at the same time ensure continuity of political growth. The task of the governing elite calls for the formulation and implementation of acceptable policies through the successful resolution of perennial conflict among various domestic interests.'¹

Lucian Pye and Sidney Verba say that political development may be understood in these senses: (1) difference between the traditional and the modern; thus it is concerned with achievements; (2) necessary political environment for economic and industrial development; (3) greater emphasis on governmental performance; (4) capacity of the whole system for work; an integrated society is comparatively more advanced than fragmented one; (5) in a way (political) development, is nation building; and (6) democratic development. greater the degree of development greater will be the progress of freedom, popular sovereignty and free institutions. Political development mainly involves three things: (i) such a change in relation to the entire population that from the wide status of slavery an increasing number of the citizens may contribute to the governmental functions; (ii) political development in relation to the performance of the government and the general system involves that in the management of public affairs, control of controversy and in meeting the popular demands the capacity of the political system may increase; and (iii) political development in relation to the organisation of the country.

Capabilities (capacity) of the political system. These constitute the most important criterion of political development. Actually, performance or achievements of the system depend on its capabilities. Important capabilities are: extractive, regulative, distributive, responsive, domestic and international. The extractive capability refers to the range of system's performance in drawing material and human resources from the domestic and international environments. The regulative capacity relates to political system's exercise of control over behaviour of individuals and groups. The distributive capacity refers to the allocation of goods, services, statuses and opportunities of

¹ Abcarian and Masannat, *Contemporary Political System*, pp. 288-91.

various kinds from the political system to individuals and groups in the society. The symbolic capacity is the rate of effective symbols from the political system into the society and the international environment.

Four important Functions of the System. These are (1) adaptation, (2) goal attainment, (3) pattern maintenance, and (4) Intergration. These do not call for an elaborate explanation as their meanings are simple and can easily be understood. The political system should be able to adapt itself according to the changing times and situations ; it should be capable of attaining its objective ; the political system, in its essentials, should be maintained ; and it should be able to bring about integration of the various parts of its territory and sections of the population.

Impediments and Challenges. At the time of independence, the national economy was not in a position to cope with people's rising expectations. Their objectives to realise the aims enshrined in the Constitution and various impediments lying in the way of their fulfilment put the government and administration in an embarrassing position. However, the leaders of the country were enthusiastic enough to fulfil the people's expectations. The developed countries were in a position to transfer their technology and expertise to India; and India badly needed such help to boost her economy. The imperatives of national development thus required unavoidable techno-economic dependence on big developed countries, but some of big powers like the USA tried to tie economic assistance with political motives.

The greatest challenge to the leadership was and continues to be the poverty-economic back-wardness, low standard of life and unemployment on a stupendous scale.¹ A connected problem is that of increasing population. Another, almost equally important, challenge at the present is rampant corruption. The gravity of the problem of corruption has been increasing, despite all efforts aimed at eradicating it. In India the problem of poverty is directly related to the existence of unemployment, underemployment and low productivity employment. R. Krishna and Amartya Sen provided estimates for 1971 : of 9.15 million unemployed, 12.20, million severely underemployed and 7.84 million moderately underemployed. According to another account, on a typical day 22 million people are looking for work. This is probably an underestimate. Family expenditure data, especially at the state level, shows a close correlation between quantitative increase in the number of landless labouring households and poverty,

¹*'Poverty a Threat to Indian Democracy', Times of India, 11 June 1982*

substantiating the general assumption of a direct link between poverty and unemployment/underemployment/low productivity employment.

'One cannot be reduced without reducing the incidence of the other. Population control may reduce the dimensions (in the future) of an already awesome problem. It is in any case a trite but true maxim that development is the best contraceptive. What then are the prospects for successfully tackling the unemployment/underemployment problem.' Employment generation without regard to time and place will not eliminate unemployment. What is more, employment must be adequately remunerative, for large numbers who are, technically speaking employed, are simply very very poor. Then there is the section (not marginal) which is unemployable and in need of special transfers of income. And finally it is well to remember that basic services must be provided in addition to employment if a serious dent into poverty is to be made¹.

The internal challenges to our political system have been of greater magnitude than that of external challenges. The heterogeneous segments of Indian society—cultural pluralism and social fragmentation on the basis of caste, religion, language and region—have been the chief obstacles in the way of social cohesion and economic integration. Religious dogma and superstition still haunt many adherents of different religions. Linguistic conflicts and caste prejudice have stood in the way of building a democratic society. The pre-democratic structure of society, inherited from the British—princes, landlords, feudal elements and industrialists—did not take kindly to the new dispensation. Social backwardness and ignorance were other impediments in the social sphere.

The problem of maintaining law, order and security on account of fast growing crimes in the country has assumed vast proportions. 'Barring a miracle, India will be in the midst of a crime explosion in a few years. Life, limb and property will become insecure in both cities and villages. People will prefer to remain indoors after dark and will travel only when they must. Women will find it risky to be outdoors even during the day. Gangs of hoodlums will roam the streets freely spreading terror. The rich will live in highly-protected buildings as virtual prisoners. The exaction of protection money from shopkeepers, businessmen, industrialists and owners of cinema halls and restaurants, prevalent in many parts of the country now, will become universal. It will include in its ambit poor, individual citizens

¹Achin Yanik, '*IV Poverty a Threat to Indian Democracy*', Times of India, 11 June 1982.

who are now spared. The rule of law will be replaced in most parts by the law of gangsters.¹ In the political sphere two great internal impediments were the lack of organised opposition and extremist politics of the communists. We would now discuss the performance of the Indian political system in the following sections.

II. Performance in the Social Sphere

Right to equality confers upon all citizens equality before law and equality of opportunity in matters of public employment ; and it also prohibits discrimination on grounds of religion, race, caste, sex or place of birth. Untouchability and conferment of titles have also been abolished. Equal rights have been granted to all citizens ; and women also have the same rights as men. But in actual practice the position is far below the aim and may not be regarded as satisfactory. In spite of great expansion of literacy among women and the common people, women and low-caste people are not treated as equals of men and high-caste people respectively. Facilities of education are not equal for all and the poor people fail to get justice in spite of the much talked of free legal aid to the poor.

Several kinds of facilities, welfare schemes and reservations in jobs and legislatures have been granted to the scheduled castes and backward classes, yet the existing gulf between the advanced and higher castes people on the one hand and the scheduled castes' and backward classes' people on the other is still wide. The same is the case with regard to women in general, although educated women are competing successfully with men in various walks of life. Thus, the ideal of social equality is far from being realised. The evils of linguism, regionalism, communalism and casteism have grown after independence, instead of becoming weaker. The result is that the goal of social cohesion is very distant. On account of their pervasive nature, peace and social harmony continue to be disturbed for one reason or the other and throughout the length and breadth of the country.

It is obvious that a positive ideology like democracy has been labouring hard for its survival in a negative society. 'Political stability in the democracy merits consideration only after democratic stability is achieved in society. Constitutions, competitive politics, supremacy of legislature and independence of judiciary will not add to the strength of the parliamentary system unless the fundamentals of

¹Hiranmay Karlikar, 'An Analysis of the Factors which have led to the Criminalisation of India,' Indian Express, 20 Feb. 1983.

society seek harmonious identity with the fundamentals of democracy and the people are educated in the treasured values of democracy so as to develop a social ethos enfolding an emotional urge for truth, the resolve to abjure violence, passion for liberty, courage to resist oppression, faith in basic equality, spirit of co-operation, adherence to the path of moderation, virtue of toleration, respect for the rule of law, strength for self-reliance, self-discipline and self-direction, subordination of private interest to public good and above all, dedication to the cause of justice.'¹

The absence of politics based on certain norms has led to a situation in which politics has been divorced from morals and values and made it a vocation for vicious profit. The younger elements as also the long-waiting aspirants for higher leadership have been forced to seek defection as a means to satiate their ambition. Further, the politics of alienation has led to the politics of frustration, and the politics of frustration has led to the politics of scramble which facilitates the policies of convenience. 'The qualitative improvement of Indian democracy demands faithful adherence to the convention of graceful retirement, firmness of the voter's preferences and probity of the legislators attained through the elevation of social morals which alone will put an end to the politics of migration ...

'As active mediating forces political parties have an enormous role to play in the social regeneration of India on democratic lines. Instead of being influenced by caste and its evils, they must zealously endeavour to educate the people in the ethics of democracy and organize public opinion to get the necessary laws enacted to abrogate the out-of-date customs, to regularise the progressive changes and to withdraw the legal recognition as well as privileges of caste. However, between a democratic ideal that is to be translated into social action and the social support required for maintaining their position, politicians in India invariably make their choice in favour of the latter. A democrat is prepared to sacrifice his existence for his freedom but the cultural element lacking in Indian civilization is the struggle for human liberties. Political parties must, therefore, endeavour to make criticism the basis of Hindu social life, and liberties its highest achievement.'

From the foregoing discussion, one may be led to conclude that the present state of Indian society is very gloomy. However, we

¹ S. N. Sadasivan, *Party and Democracy in India*, p. 486.

² *Ibid.*, pp. 493-95.

should notice that there are certain redeeming features as well, which we may mention briefly. First, education facilities have expanded very rapidly and are increasing every year. Institutions of higher learning and technical education are bringing out every year thousands of brilliant scientists, technologists, doctors, lawyers, teachers, engineers, who are doing a wonderful job in their spheres. The country is really proud of hundreds of them in every sphere. Second, women are moving with time and advancing in various spheres of life. Third, a large number of young men (and even women) are coming up from amongst the scheduled castes and backward classes. Fourth, health and other welfare services are expanding, though not at a satisfactory pace. The result is that expectancy of life or life span in the country has almost doubled since independence. The problems that existed were tremendous and the democratic process itself is slow, these facts should always be kept in mind before passing any judgment. The progress towards the goal has been very slow; but there is no cause for despair, as is indicated by the following statistics :

	<i>Education</i>		<i>Health</i>		<i>Expectancy of Life at Birth (Years)</i>	
	1947	1978	1947	1978	1947	1978
Literacy	16.6%	29.5%	Hospital 113	287	Males	19.4 53.8
			beds (000s)			
Primary	210	404	Doctors 56	154	Females	20.9 52.6
Schools						
(000s)						
Universities	30	86				

III. Performance in the Economic Sphere

Economic Growth. Between 1950-71 and 1978-79 the underlying trend rate of growth of national income was 3.5 per cent, of agricultural production 2.7 per cent and of industrial production 6.1 per cent. In per capita terms income grew at a trend rate of 1.3 per cent. A summary assessment of the growth performance of the Indian economy over the planning period would be that it improved substanti-

ally on past performance, but was generally less than what was targeted and more unstable than what was desirable. Some part of the short-fall and much of the instability could be attributed to the weather. But the gap between performance and promise was also due to our inability to maintain public investment at targetted levels and deficiencies in management and utilisation of assets.

NATIONAL INCOME AND ALLIED INDICATORS¹

(in crores)

Item	1970-71	1975-76	1978-79
Gross national product at current market prices	39,979	73,671	96,079
Private income	34,508	62,794	—
Personal Income	33,915	61,584	—

Modernisation. A shift in the sectoral composition of production, diversification of activities, an advancement of technology and institutional innovations have all been part of the drive to change a feudal colonial economy into a modern and independent entity. The composition of national income has changed steadily over the planning period. The share of mining, manufacturing, construction and productive infra-structure has increased from 18.8 per cent in 1950-51 to 29.9 per cent in 1978-79. The main component in the drive for structural diversification has been the effort to promote industrial growth and diversification. At independence we inherited an industrial structure that was restricted to a few industries like textiles and sugar. The drive to diversify this structure, a drive linked to the search for self-reliance has been the keynote of the industrial strategy of our plans. In terms of sophistication of technology and the range of goods manufactured an extensive degree of industrial diversification has been achieved. The organisation of industry has also undergone a major change with the development of the public sector. The difference is reflected in the larger contribution of productivity gains to production growth rates being as follows :

¹ Reserve Bank of India, *Report on Currency and Finance*, 1979-80, Vol. II, p. 6

Item	<i>Foodgrains</i>		<i>Non-Foodgrains</i>	
	1949-50	1964-65	1949-50	1964-65
	to 1964-65	to 1978-79	to 1964-65	to 1978-79
Area	104	0.6	2.5	1.8
Production	3.0	3.4	3.5	2.6
Yield	1.4	2.3	1.0	1.3

Self-reliance. The objective of self-reliance as articulated in our plans has several dimensions of which the most important ones are a reduction in the independence on foreign aid, diversification of domestic production and a consequential reduction in imports for certain critical commodities and the promotion of exports to enable us to pay for imports from our own resources. The management of foreign trade during the planning era has been dominated by the drive for self-reliance and import substitution in critical areas, as can be seen from the following tables :

Import Substitution
(Percentage share of imports indigenous supplies)

Item	Pre-Plan 1950-51	End of Third Plan 1965-66	1977-78
Foodgrains	5.9	9.5	0.2
Iron and Steel	25.2	16.7	1.1
Machinery	68.9	27.8	15.3
Petroleum	92.5	76.6	63.1
Nitrogenous fertilisers	72.5	58.3	27.5

GROWTH IN EXPORTS
(Annual growth in values of current dollars)

Region	First Plan 1951-56	Third Plan 1961-66	Fifth Plan 1974-79
India	1.8	4.8	17.3
All developing countries of which	5.1	5.9	21.6
(a) Major Petroleum exporters	12.3	6.6	27.2
(b) Fast growing exporters of manufactures	—	5.5	19.4
All countries	9.1	7.8	17.4

Public Sector. The public sector has been largely successful in implementing the country's objectives. It is clear from the following : (1) The public sector investments have encompassed almost all the sectors of the economy : transport, communication, irrigation, public buildings, manufacture of capital goods and consumer goods, trade, finance, tourism, etc. (2) Within these varied investments, there is a special emphasis on basic and key industries such as coal, steel, electricity, fertilisers, machine-making, etc. (3) Infra-structure facilities like ports, transport, finance, etc. have also been provided on a vast scale. (4) The public sector is now a full-fledged monopoly in many lines of production. 'Taken together, the public sector has fulfilled to a large extent the aims set down in the policy resolution. It is spearheading and helping the economy to develop fast. It is hoped that the public sector will be equally successful in fulfilling its new tasks assigned to it in recent years of using it as a force for maintaining essential supplies for the consumer, as also of promoting the development of ancillary industries, and through its expertise in technology and management, the growth of small-scale and cottage industries.'¹

Foreign Trade. On the eve of planning, the foreign trade of India showed an excess of imports over exports. The rise in imports

¹A N. Agarwal, '*Indian Economy : Problems of Development and Planning*,' p. 500.

was largely due to (a) pent-up demand of the war and the post-war period as a consequence of various controls, and restrictions ; (b) the shortage of food and basic raw materials like jute and cotton as a result of partition ; and (c) the rise in the imports of machinery and equipment or capital goods—to meet the growing demand for hydro-electric and other projects started during the period. During 1974-75, there was a record achievement in exports as they touched a level of Rs. 3,329 crores—a rise of about 32 per cent over the previous year. This was a very healthy development. But simultaneously imports also reached an all-time high level of Rs. 4,519 crores, signifying an increase of 53 per cent over the previous year. During 1976-77, the decline in imports to Rs. 5,074 crores was due to a marked reduction in the imports of food and fertilisers.

The Indian economy registered a growth rate of five per cent in real terms in 1981-82, helped by improved performance both in agriculture and industry. The rates of net domestic savings and investment also recorded increases. According to quick estimates of national income released by the Central Statistical Organisation (SCO), on 9 February 1983, the per capita income in real terms (1970-71 prices), stood at Rs 720 in 1981-82 as against Rs 700 in 1980-81. The rates of capital formation were higher than the rate of savings over the last three years. This was attributable to the larger inflow of capital from abroad. India's total national income in 1981-82 was estimated at Rs 49,887 crores, against Rs 47,490 crore in 1980-81, at constant prices.

The rise in national income in the first two years of the Sixth Plan was 8.1 per cent and five per cent, respectively, giving an average growth rate of 6.5 per cent. At current prices the national income in 1981-82 stood at Rs. 1,121,242 crores—an increase of 13.8 per cent over the previous year taking into account the overall price rise of about 8.3 per cent. The savings and investment rates in 1981-82 were 17.5 per cent and 20.1 per cent respectively, as against 16.7 per cent respectively in the previous year. The larger savings came from both the public sector, mainly due to the increase of foodgrain stocks, as well as the corporate and household sectors.¹

Observations. Democracy cannot strike roots if the pace of development is not fast enough to make a difference in the life of the common man. Smt. Gandhi's 20-points are supposed to meet both specific and urgent needs of society. Her new plan not only calls for

¹Indian Express, 10 Feb. 1983.

building the infrastructure but also underlines the need for creating a proper atmosphere that generates new confidence amongst the have-nots of society. Smt. Gandhi has also given the slogan 'Shrameva Jayate'—victory to labour. The country badly needs a work culture. As things stand, we talk big and debunk everything under the sun without contributing much either to thought process or growth effort. In the absence of a work tempo the progress in certain areas has not been fast enough.

The most fundamental requirement of economic development in a democratic society such as we have in India is to mobilise popular support for our economic plans. Hence the need to plan for an economy in which there is no justification for large inequalities of income. And this can be achieved only if the public sector takes over "progressively the promotional and efficient managerial functions necessary for development." Proper functioning of the public sector is, therefore, partly a pragmatic necessity to promote economic growth and partly a means of providing an ideological stimulus. The green revolution is very much part of life and a further boost to the farm sector is on the cards under the new programme. Bank credit to agriculture and other neglected areas has risen from Rs. 441 crore in June 1976 to nearly Rs. 6000 crores, that is to say, the share of this sector in the overall bank credit has gone up from 15 per cent to 35 per cent. Public and private sector jobs have increased; 196.58 lakh new jobs have been created in the five years. Out of these 28 lakh jobs have been in the government sector.

The incidence of bonded labour has been reduced to negligible levels. Minimum wages have been fixed by all states for farm labour. Surplus lands after ceilings have been vigorously distributed to the landless. Housing schemes have been launched for the landless and poor farm labour. Khadi and village industries as well as small-scale units have got a tremendous boost, contributing 51 per cent of the total manufactured items. Irrigation has increased to cover 55.60 million hectares now compared to 43.65 million hectares in 1975.

These achievements coupled with other socio-economic programmes have decidedly improved the lot of weaker and neglected sections, specially in the rural areas. But a lot still remains to be done. The burgeoning population has resulted in minimising the impact of these achievements, specially in the areas of foodgrain and other essential fields. What is required immediately is a viable framework for faster growth, a system that responds to new demands and works out readjustment. However, the desired results will be

difficult to achieve unless the politico-administrative system is reformed from above and pressurised from below. The people are unlikely to accept a system consisting of reactionary morons, hypocrites and parasitic babus. They want an administrative machinery that is knowledgeable, sincere and dedicated to the cause of the poor.¹

IV. Performance in the Political Sphere

Here we would discuss briefly how far India has been able to achieve political development. With the introduction of adult franchise for the election of people's representatives at all levels of government—Union, state and local—all people without any discrimination have acquired the status of free citizens. Moreover, they have been granted equal rights of citizenship. A large percentage of the population—urban and rural, male and female—participates through voting and a very large number of people hold elective offices. Panchayati raj institutions provide ample opportunities even to the poor and down-trodden to hold elective posts. Political parties and elections have spread political education, in spite of prevailing wide-spread illiteracy. Even foreign political observers have commended the maturity of people's verdicts at elections. Through the election of their representatives, people have changed the governments as well as the constitution. From this we may pass on to *greater democracy*: enjoyment of political freedoms, political parties, interest groups, representative government. People now enjoy almost all political freedoms, subject to reasonable restrictions. Representative institutions exist at all levels of government and the large number of political parties—ideological, national—and a much large number of interest groups clearly signify that India has achieved much political development in this respect. One other aspect of political development—national building—has already been discussed in Chapter 25.

We may now consider the various capacities of the political system. In respect of extractive capacity, it has been able to raise material resources for its development plans from the internal as well as external environment. The Indian political system has been regulating the behaviour of individuals and groups in a satisfactory manner; except in respect of checking crimes and frequent breaches of law and order, for which many social, political and economic factors

¹Hari Jai Singh, 'Making Freedom Meaningful,' National Herald, 20 Jan. 1982.

are responsible. The distributive capacity is the activity of the political system as dispenser or distributor of benefits among individuals and groups. One of the main grounds of criticism of economic growth is that in spite of the increase in national wealth, the distribution of increased wealth has not been fair. As a result of that the gulf between the rich and the poor is widening. However, these points deserve to be noted in this connection : (i) all governments and major political parties advocate socialism and the establishment of a welfare state ; (ii) there are special provisions in the constitution for the scheduled castes and tribes and backward classes ; all the governments are providing various kinds of facilities and concessions to the weaker sections of society ; (iii) twenty-point programme has specially been devised for the uplift of weaker sections ; (iv) taxation policy of the government is based on the principle of placing heavier burden on those who are in a position to pay more ; and (v) the grant of equal rights and opportunities to all citizens by the Constitution itself.

Through the judicious creation and exploitation of a set of powerful and popular symbols, the political elites may be able to gain acceptance of policies which they deem necessary, but which are painful or unpopular. The Indian elite has been having a high symbolic capability, with insignificant exceptions. The Presidents and the Prime Ministers have always drawn huge crowds to their meetings. Like Nehru, Smt. Indira Gandhi is characterised as a charismatic leader. The national flag, the national anthem, the slogan 'Jai Hind' and 20-point programme possess widely enough symbolic capability. In the field of responsive capability chief difference between a democratic system and autocratic bureaucratic system lies in the fact that the former possesses far greater responsive capability than any other kind of political system. In a democracy political parties and numerous interest groups can be organised freely. They articulate and aggregate demands of the people and place them before the government in a constitutional manner or through agitational methods. Like any other political system, the responsive capability of the Indian political system is good. In response to the wishes and demands of the people important social and political measures have been taken by the Union and State Governments every year. The governments have also been pursuing plans of economic development, launching numerous development and industrial projects, undertaking schemes of agricultural development and so on.

As regards domestic and international capability, it may be said that political systems interact both with their domestic societies and

with political systems in the international environment. The various capabilities already discussed refer to the domestic society, so nothing more be added here about that. But so far as international environment is concerned, the political system should also possess the same capabilities in respect of that. International extractive capability—income from international trade or foreign tourists, profits from the investment of capital abroad—of the Indian political system is satisfactory; it cannot be high as was the case with colonial and imperial powers, because any kind of exploitation is bad. The regulative capability (in the international environment) means the extent to which a political system penetrates another one and controls its politics and public policy. Such a capability was high and remains so for colonial and imperial powers. In the case of India, this capability is bound to be low. The international distributive capability in the form of subsidies, grants and loans and technical assistance (as is provided by USA, USSR, UK and West Germany) is also low, because India still being a poor country has little wealth for distribution outside its own territories. Even then the Indian Government has been extending financial and technical help to the poor and backward countries among the neighbours, such as Nepal, Burma, Bangladesh and Sri Lanka.

From the point of view of administrative system, it can be said that the system has been increasingly differentiated and specialized, keeping in view the new tasks of administration. All efforts have been made to increase its responsiveness to the wishes of the common people and improve its efficiency. But the plain fact is that the efficiency of the administrative system has fallen instead of rising. In our opinion the two main reasons for this state of affairs are: (1) increasing political interference in administration and (2) growing corruption.

Finally, from the point of view of India's foreign policy, we can say with pride that the basic policy of non-alignment adopted by the government under Nehru and consistently followed after him by the Congress and Janata Governments has proved a great success. In the first place, it has served India's interests extremely well in the harsh bi-polar world, enabling the country not only to steer clear of dangerous entanglements, military or ideological, but also to get from both sides technology and tools desperately needed to convert the medieval Indian economy into a modern one. What is more, non-alignment became something of a beacon for all newly emergent countries of the Third World. 'Above all, it is to Indira's credit that she asserted,

for the first time and despite evident American unhappiness, the predominance of Indian power in the South Asian region. The sturdy independence of her nuclear policy (despite latter-day anxiety to curry favour with the US) speaks for itself.¹

State of Political Institutions. Rajni Kothari wrote some years ago: 'The general feeling is that 'something has gone very wrong somewhere.' Few of those who have begun to doubt the relevance of the political system or its capacity to deliver the goods wish for a dictator who will somehow put an end to all our ills or for a revolution that will somehow usher in a golden age. They realise that even the present crisis has not greatly affected the Congress Party's capacity to secure a majority in the elections which in turn has little to do with its capacity to perform. They also know that the opposition parties are as divided as ever, and that all they can think of in this situation is action aimed at obstructing civil government from carrying on its normal functions. All this has produced a popular mood that either directly or by default legitimises violence. The government will not be able to cope with this crisis unless it is able to arrest this mood.'²

"India's democratic system received the most powerful challenge from Mrs. Indira Gandhi's authoritarianism... Although attempts were made by Mrs. Indira Gandhi and her supporters, including her son, to monopolise power, it will be wrong to conclude that there was a full-fledged dictatorship in the country.... It is in the background of these events that on the advice of the Prime Minister, the President declared the "State of Emergency in India." A large number of the political observers inside the country and outside concluded that the "Emergency" was declared to protect Mrs. Indira Gandhi's personal interests and Mrs. Indira Gandhi decided not to step down because she wanted to protect her son and her personal interests." In spite of the sweeping constitutional amendments and various steps taken, to concentrate in the hands of the executive, authoritarianism collapsed in India, like a house of cards when the elections were held to the Parliament in 1977.³

But the President, Fakhruddin Ali Ahmad and the Prime Minister, Smt. Indira Gandhi, reaffirmed their abiding faith in the

¹Under Malhotra, *Foreign Affairs - A Success Story*, Illustrated Weekly, 21 Aug. 1977, pp. 17-9. For detailed discussion of the subject refer to chapters 27 and 28.

²Rajni Kothari, *Political System on Trial - I*, Times of India, 12 April 1974.

³K. P. Karunakaran, *Democracy in India*, pp. 41-51.

parliamentary system of government based on social and economic justice and the recognition of individual liberty on 28 October 1975. "The parliamentary system," the President said, "is more than an apparatus of government. It is a part of the political culture of human societies. The parliamentary system of government epitomises the development of representative institutions and their increasing responsibility and growing responsiveness." Mrs. Gandhi said that the past five general election in this country had demonstrated the nation's abiding belief in the democratic system. The people had, by and large, rejected the appeal of the extreme right and the extreme left, and had accepted the middle path of socialist development. Democracy had neither, inhibited nor slowed down India's progress. When compared to the achievements of totalitarian regimes, India could well say that its achievements have been no less impressive.¹

"What has been done is not an abrogation of democracy but an effort to safeguard it. Preserving the integrity of the fabric is a major challenge in the early years of any new nation. Our constitution-makers were fully aware of the problems involved and knew that while our diversity had to be accommodated through federalist provisions, the Centre should hold at all times and should have sufficient power to deal with threats to unity and order. When there are constitutional deadlocks in a State, the Union takes over the administration of the concerned State. This is an example in which our Constitution provides for contingencies that may be peculiar to our situation and may not obtain in an established, old Republic like the United States."²

A clear idea of growing concern with the failure of democracy in India may be had from the following articles :

<i>Name of the writer</i>	<i>Title of the Article</i>	<i>Publication</i>
Dileep Padgaonkar	Threats to Democracy	Times of India 15 Oct. 1977.
Girilal Jain	The System Under Stress I-III	Times of India Apl. 1978.
Ajit Bhattacharya	Failure of the System	Indian Express 3 July, 1979

¹*Times of India*, 29 Oct. 1975.

²I & B Ministry, *Democracy With Discipline : Speeches of Sm. Indira Gandhi*, p. 61.

<i>Name of the writer</i>	<i>Title of the Article</i>	<i>Publication</i>
Prem Shankar Jha	Ending Political Stability-I-The Breakdown of Cabinet Government	Times of India 10 Sep. 1970
Giri Lal Jain	Disarray in Indian Politics : Semi-Intelligentsia to the Fore	Times of India 18 June 1980
A.S. Abraham	Rising Tide of Turmoil : Fresh Threat to the System	Times of India 5 Sep. 1980
Giri Lal Jain	Indian State in Peril : Corruption the Biggest Threat	Times of India 16 Sep. 1981
A.S. Abraham	A System Under Siege : Visible Signs of Collapse	Times of India, 27 Nov. 1981
Giri Lal Jain	Indian State in Decay : No Limb Functioning Well	Times of India 26 Jan. 1982.

Decline of Political Institutions. For several years political observers and critics of the Indian political system have noticed the erosion of the political institutions, for which several factors are responsible. The chief among them is the rise of personalized politics. According to some critics, there has been too much stress on the leadership and too little on institutions, their integrity and autonomy. This has led to an erosion of both effectiveness and morale—from the party system to the bureaucracy and to the law and order machinery. We would briefly discuss this aspect with reference to the following institutions.

Union Parliament (and State Legislatures). It is said that there has been a marked decline in the character of Indian Parliament. The reasons are : (i) The work of Parliament is being handicapped because it sits only for about 120 days in a year and much of its time is pre-empted by government business. There has lately been a tendency to have as few sittings of State legislatures as possible. There are examples of a number of bills being rushed through in an hour or even less time. Rules of procedure are often violated. (ii) Party loyalty binds members to support the measures introduced by the ruling party. (iii) The rising turmoil and falling decorum also contribute to

the decline...(iv) Increasing use of ordinance-making power. (v) Expansion in the powers of the executive at the cost of the powers of the legislatures.

There is an element of truth in all these points, but we should note two things : first, the powers of the executive have increased not only in India but even in the model parliamentary system of the United Kingdom. Critics say that dictatorship of the Cabinet has taken the place of parliamentary sovereignty in UK. This is not true, but the fact is that there has come into existence what is now described as 'Prime Ministerial form of Government.' India has witnessed a similar tendency under Smt. Gandhi's prime ministership. Secondly, parliamentary governments of France and Sri Lanka have been converted into a hybrid of parliamentarism and presidentialism and a debate on the subject has been going on in our own country. Presidential form, based on a strong executive, was recommended by many Indian leaders as a remedy for instability. So far as rules of procedure and decorum are concerned, there is enough evidence to prove the charge, but we must face the realities of the situation. The new generation of representatives has had little knowledge of and training in such institutions. Even then, there are not many cases of the violation of rules and decorum.

Judiciary. Independence of the judges is being undermined for these reasons : (i) Salaries of the judges are very low and there has been little effort to increase their salary, even though remuneration and allowances of legislators have been raised several times, since the enforcement of the Constitution. (ii) There have been cases of judges of the Supreme and High Courts being superseded for political and other reasons. (iii) Judges are now being transferred from one High Court to another. (iv) After retirement judges are appointed as governors or ambassadors. This aspect has been discussed in Chapter 15. We may only add here that independence of judges in the USA is much less than in India. Moreover, the Janata Government can also be blamed for these lapses as the Congress Government is generally blamed.

Party System. It is generally and rightly accepted that a two party-system is necessary for its successful working. The existing electoral system favours the growth of two-party system. But for various reasons, which need not be discussed here, two-party system has not grown in India. The ruling Congress Party may be criticised on various grounds ; but it is not proper to hold it responsible for the mistakes of the opposition, which has remained unorganised and

divided. The opposition leaders now indulge in vain criticism of the ruling party, which does suffer from several weaknesses. "In fact a new political system has come to prevail in the country. The evils that had plagued the old system for long—corruption, lawlessness, gangsterism, the personality cult—have now become the very foundations of the new order. Where once chief ministers were allies of big business, they are now in partnership with smugglers. In one state, in particular, the alliance between a senior minister and dacoits has become a public scandal."¹

The following observation deserves to be noted: 'The drift in the country's affairs which we have been witnessing since Mrs. Gandhi's return to power in January 1980 is accelerating alarmingly. If, as it gains momentum, it can be said to have a direction, that can only be described as the total paralysis of governance and impotence of the state. Mrs. Gandhi had promised a government that works. Nearly three years into her term, well over half of it, she has delivered one that does not move, it seems helpless even to prevent those determined to wreck the system from going about their destructive task Far from the passage of time showing that she is getting on top of the country's problems, what we are seeing instead is her increasing, obsessive preoccupation with dissidence, factionalism, and the making, reshuffling and un-making of Congress (I) state and Central ministries.'²

Political System is not at Fault. On 10 October 1980, Janata Party President rightly disputed the contention that the democratic political system had failed. According to him, in a continuous bid for assaults on civil liberties and courts, leaders of the ruling party, from the Prime Minister downwards, "attribute their failure to the failure of the system." Talking to newsmen, he said the fault was not with the system but with a terribly sick and awfully ill government."³ The outgoing President soon after his retirement said that while the lamp of democracy had been extinguished in some countries around us "we have reason to feel pleased that we have adopted and have been following the democratic system of government." He added, "our people have made it clear beyond doubt that they will not accept abrogation or abridgement of human rights and freedom and

¹Indian Express, editorial, 29 Nov. 1981.

²A.S. Abraham, 'Wages of Factionalism : Congress (I) Drift Towards Paralysis,' Times of India, 15 Oct. 1982.

³Times of India, 11 Oct. 1980.

have shown their clear preference for the democratic system."¹—(Kuldip Nayar).

But over all this now hangs a question-mark. As a result mainly of Mrs. Gandhi's stewardship of the party for, effectively, some 14 years, the party, and so the country, is in a mess. It is less and less able to tackle internal disputes or to mediate state and national ones, while the question of the succession in leadership cannot as yet be said to have been settled. The present loss of Andhra and Karnataka, rightly considered Mrs. Gandhi's bastions when they alone held firm against the 1977 Janata tidal wave, has exposed the Congress (I)'s growing vulnerability. 'It would be premature to say that the first strains of the party's swan-song can now be heard. Mrs. Gandhi is down, as she was in 1977, but not out, as she showed in 1980. She is pre-eminently a fighter and a survivor and with her son's and her family's political inheritance itself at stake, she can be expected to fight back with redoubled vigour. The Congress, too, is a party that has withstood many vicissitudes without going under. On present evidence, it is too early to say that it has lost the capacity for self-renewal. If it splits again or expels the numerous malcontents it harbours, the shedding of fat would make it a leaner, trimmer body. Should this happen during Mrs. Gandhi's stewardship of the party—and that might extend beyond 1985, whether or not the party is still in power—then it would be well-placed to win back its erstwhile primacy.

'But it is no less likely that the Congress (I) may be unable to pull itself up by its bootstraps for one reason or another. In the absence of an alternative party which can assume the mediating and stabilising role that the Congress (I) has played so far, the system could be overwhelmed by myriad problems and fall prey to divisive or authoritarian forces. When the Janata took power in 1977, it sought to function as a single party into which its five constituents had merged their identities. The attempt was in vain, but what is interesting is that it was made. By trying to work as a single unit, the constituents sought to replicate the Congress, an umbrella body sheltering various shades of broadly centrist opinion (with extremes on left and right kept out) and better able for that very reason to mediate internal conflict as well as state and national disputes. Perhaps the model of democracy we have worked so far (and we have experience of no other) unconsciously predisposes even non-Congress leaders to subs-

¹*Pioneer*, 25 July 1982.

cribe to the "Congress culture" to seek to underwrite stability through single-party dominance of the system. Why else should the Janata leaders have sought through union to accomplish that end through those means?

'With the Congress (I) weakened and apparently on the retreat, the opposition parties, all but thoroughly demoralised and fragmented until now, have taken heart. The Janata, in particular, which almost everyone had virtually written off, is back in business. Again, the same trend towards merging into larger units is at work. In Karnataka, the Janata and the Kranti Ranga have coalesced (despite some ambivalence about this in the latter). In Orissa, the Lok Dal (Karpoori faction) has melted into the Janata and the Congress (S) unit there has also dissolved into a still larger Janata. But all these moves may come to nothing. Apart from the BJP, the myriad opposition parties are neither individually nor collectively of much consequence beyond their immediate constituencies. Nor, even if they were, is there any certainty that they would be able to cohere for long as a single unit.

'A more realistic scenario would be an attenuated Congress, unable to attract the wide spectrum of support all round the country that has so far sustained it, an opposition splintered into competing parties, and factions of parties a crazy patchwork-quilt of political control at the Centre and in the states, many states run by regional political warlords on the NTR model, increasing centrifugalism inspired by regional chauvinism or (as with the CPM) by ideology, this trend contending with larger social and economic changes making for integration, severe, perhaps intolerable, strains on the federal set-up as Centre-state relations deteriorate, in brief, the breakdown of the system as evidenced by shortlived coalition governments at state and Central levels, held together only by the soggy putty of transient self-interest. It is a depressing prospect.'

Conclusion. The Indian political system has satisfactorily performed all the four important functions, mentioned in section I. The constitution has been amended several times in the light of changed conditions and demands of the people. India adopted the goal of democratic socialism, and has moved in that direction. But it has to go very far and the pace of development is not satisfactory. India is the only country in the Third World to have maintained the parliamentary system, in spite of many odds. Finally, although the country has wide social diversities, yet it is moving towards national integra-

¹ V.S. Abraham, 'Prospects for the System', Times of India, 14 Jan. 1983.

tion. In any case, the inter-dependent roles of the Union and the States as well as the roles of the three main organs of government have been integrated.

The question may be asked : could we have done better ? The answer to the question is easy and simple. We could have done better, if the ruling party, the opposition and the people had played their parts well. The ruling party and the opposition parties have worked more for their own ends and have failed to cooperate even on national issues. It has been aptly remarked that (in a democracy) good government requires good citizens. It is true that a large number of politicians and officials are corrupt, but the fact cannot be denied that citizens have corrupted officials to advance their own interests. Moreover, there are citizens who constantly demand more and better services of every kind but balk at paying taxes that services necessitate. It may also be added that majority of citizens are deficient in self-reliance and at the same time are self-centred. Successful working of democracy requires that citizens perform their duties and fulfil their obligations.

It is true that parliamentary democracy in India has not been as much a success as we wanted. But it is all due to various impediments and the lack of character of our people, including the authorities. In order to revive the health of the body politic, the following suggestions deserve consideration : (1) All parties must have faith in the ideals of the constitution, the political system established by it and the norms of parliamentary democracy. (2) The ruling as well as the opposition parties should contribute to the development of healthy conventions, such as the two-party system, respect for parliamentary procedure, constructive criticism and respect for law and order and the independence of judiciary. (3) Electoral system should be reformed, so as to minimise the role of money power ; and provision for recall may also be made under certain well-defined conditions. (4) The government must adopt all possible measures to eradicate corruption. (5) It must also take stern measures to maintain law and order, but without suppressing the legitimate exercise of the right of freedom by the people. (6) Educational system must be made more relevant and meaningful. (7) All parties should co-operate in order to attain self-sufficiency in food and other essential commodities. Economic planning should be, as far as possible, above party politics. (8) The administrative machinery must be made more efficient and responsive to public needs. Political interference in administration must be cut to the minimum.

V. Present Trends

Political Corruption. Instances of political corruption are so well-known that no illustrations need be given here. The Rajya Sabha debate on corruption (early in May 1982) was hailed for its high tone. Pranab Mukherjee, who intervened in the debate before the Home Minister replied to it, was not entirely wrong in saying that it would do the nation no good at all if the integrity of almost everyone was called into question for no rhyme or reason. But he was unrealistic in claiming that corruption was confined to only a "microscopic minority". 'Were this so, graft and corruption would not have become the explosive issue that they have. It is precisely because bribery and corruption have acquired dangerous dimensions, impinging on people's lives at almost every step, that there is so much hue and cry about them. In fact, if some honest people are also unfairly blamed, it is because so many have got away with so much wrong-doing that the people are inclined to believe the worst about almost everybody. It will be manifestly dangerous for the country's health if this miasma of distrust, suspicion, cynicism and frustration is allowed to persist. But it can be dissipated only if the corrupt, especially in high places, are not only punished but are also seen to be so punished.'¹

Societies in the process of politicisation and modernisation cannot be managed if those at the helm lack the necessary integrity. Power, backed by a mighty coercive apparatus, can no longer suffice. Kuomintang China collapsed because its ruling elite was corrupt and tyrannical. The Shah of Iran was swept away for the same reason. Scores of other regimes are dying on account of the same internal haemorrhage. 'We talk of social change as if it is value free. It is not. It carries a large baggage of values. Equality is a moral value; so is justice; so is impartiality. Modern man is deeply moral even if he is not always able to live up to the high values he sets for himself. Corruption offends his deepest sensibility as much as dirt, disease, abject poverty and ignorance. India's need for a leadership with a clean image is particularly great because its dependence on it is so heavy.

Causes. The Santhanam Committee Report, 1964, identified the following as the major causes: (i) the rapid expansion of governmental activities involving huge expenditure; (ii) decline of the

¹*Times of India*, editorial, 8 May 1982.

²Inder Malhotra, 'Gift of the Grab,' *Times of India*, 20 Dec. 1981.

real incomes of the salaried officials due largely to spiralling inflation (and rising prices); (iii) vesting of vast discretionary powers (in financial matters and decision-making) in individual officials especially in the departments of excise, income tax, customs, engineering and others dealing with licenses, controls, permits and tenders ; (iv) cumbersome and dilatory official procedures, occasioning dishonest practices like the payment of speed money ; (v) accumulation of vast, unaccounted (black) money in the country, coupled with the operations of an army of liaison men and contact men, some of whom live, spend and entertain ostentatiously ; (vi) the role of money power in elections occasioned by the high costs of canvassing and propaganda ; and (vii) the general decline of character and ethical standards in public life.

Remedial Measures. The Santhanam Committee recommended: (1) A code of conduct for ministers, including the provisions suggested for public servants relating to acquisition of property, acceptance of gifts and disclosure of assets and liabilities should be drawn up. (ii) Specific allegation of corruption on the part of a Minister at the Centre or in State should be promptly investigated by an agency whose findings should command respect. (iii) In respect of allegations appearing in press or which otherwise come within notice, the Prime Minister and the Chief Minister should be free to refer the matter to this agency. (iv) The President should constitute, on the advice of the Prime Minister, a "National Panel" from which an ad hoc committee consisting of 3 persons of whom one should have held or should be holding a high judicial office should be constituted to deal with a complaint against a Minister.

2. (i) The legislators who are in the employment of private undertakings for legitimate work, should declare the fact of such employment. Such legislators should not approach Ministers or officials in connection with the work of the employers and also should not participate in the discussion or voting on demands or proposals in which the undertakings or firms are interested. (ii) A code of conduct for legislators embodying these and other principles should be framed by a special committee of Parliament and legislatures.

3. The conduct of political parties should be regulated by strict principles in relation to collection of funds for electioneering. A total ban on all donations by incorporated bodies to political parties will clear the atmosphere. All political parties should keep a proper account of their receipts and expenditure and should publish annual audited statements giving details of all individual receipts.

4. The Central and State Governments should make it a point to scrutinise carefully all complaints and allegations appearing in responsible newspapers and investigate them thoroughly. Editors and reporters should be encouraged under a pledge of secrecy to communicate to the Chief Vigilance Officers or the Central Vigilance Commission about suspected corrupt practices and all such reports should be inquired into.

The Union Cabinet approved the Code of Conduct for Ministers. The Code provides that the Ministers will have to declare, before assuming office, not only their own assets but also those of the members of their families. They will also submit to the Prime Minister or their Chief Minister, as the case may be, annual statements showing the assets held by them and their family members, who would include the Minister's wife and children as well as others solely dependent upon him. It is understood that under the Code, Ministers should not hold commanding shares in joint stock companies. While on tour, they should not normally stay with private individuals but only in Government Circuit Houses, nor should they avail themselves of private transport facilities.

In 1966 the Administrative Reforms Commission even drafted a bill for the appointment of a Lokpal at the Centre and Lokayuktas in the States. A bill in that regard was introduced in the Lok Sabha in 1968 but was allowed to lapse. Jayaprakash Narayan took the lead in hammering this point home when he took up the leadership of the agitation in Gujarat in 1974. He pressed for the establishment of an independent machinery to tackle cases of corruption in high places.¹ An effective remedy is the growth of public awareness and initiative by the people in eradicating corruption. It is necessary that under the leadership of persons with unquestioned moral stature, an organised move should be made for forcing the government to create an authority to deal effectively with the misuse of power by ministers and legislators.

Among other measures we would suggest the holding of prompt inquiries into alleged case of corruption, and deterrent punishment for those who are found guilty of such charges. The entire ill-gotten wealth should be confiscated by the state and the corrupt person should be made to undergo a sufficiently long period of imprisonment. Corrupt person should also be debarred from holding any public office in future. Firms, companies, contractors, etc. who are found to

¹*'Corruption of High Places,'* editorial, Times of India, 29 April 1977.

have offered or provided illegal gratification should be blacklisted, apart from other penalty which may be inflicted on them. Publicity by newspapers, magazine and other news media is the single greatest deterrent to corruption. Therefore the Press has vital role to play in rooting out corruption. Exposing the corrupt ministers, legislators and public servants must form an integral part of the responsibility of newspapers, particularly the regional and local ones. Rajagopala Ayyanger Report says : "a vigilant, virile and fearless press which takes a non-partisan attitude as regards cleanliness in public life, an informed intelligent and alert opinion could prevent and stop corruption."

Politics of Agitation, Conflict and Violence. In support of their demand for linguistic states and reorganisation of the units of the Indian Union, people resorted to hunger-strikes, black flag demonstrations, processions, demagogic exhortations, satyagraha, etc. Since 1955 the Akali Dal has been campaigning almost ceaselessly for the formation of a separate Sikh State in the Punjab. In the summer of 1959 all Leftist political parties, with the exception of the Praja Socialist Party, banded together to stage an agitation in Calcutta against the high price of rice. Non-communist political parties in Kerala, (summer 1959) joined forces to propel that troubled state to the verge of civil war, which in turn moved the Central Government to intervene and oust the incumbent Communist government from power. The State of Assam was scarred deeply for two years (1960 and 1961) by intense and attenuated outbursts of linguistic frenzy between the State's Assamese-speaking and Bengali-speaking groups. In October 1960, immediately following the adjournment of the National Integration Council, which had been meeting under the chairmanship of Nehru to consider united political action to heal the multiple divisions in Indian society, communal rioting erupted between Muslims and Hindus in the university town of Aligarh, (Uttar Pradesh) and spread quickly to outlying villages. The resort to violence had become so pronounced that the Times of India commented in the summer of 1960, in an editorial devoted to police firing : 'Not the least depressing part of this dismal situation is that police firings are no longer regarded as something greatly out of the ordinary. Familiarity has bred cynicism both among rulers and the ruled.' And it added : "There is a new and frightening normalcy, with violence constantly in the air."¹

¹David H. Balley, 'Violent Public Protest in India', 1900-1960', I.J.P.S. Oct.-Dec. 1963, pp. 309-10.

The common model may be described thus: The politician makes demands to which the government fails to respond. He then turns towards force to which the government does respond, and is thereby convinced that only such mass pressures will move a static and conservative government. In turn, many a policy-maker is unwilling to listen, and often unwilling to respond when he does listen. He is accordingly unable to assess the consequences of this policy.¹ The forms of protest are many and varied, and some are peculiar to the Indian scene. An important aspect of the crystallization of oppositional strength in India is the confident use made of protest demonstrations and strikes. Then there are hunger-strikes and fasts, bandhs (general strikes in whole cities or states), gheraos (cordonning of men in authority), and dharnas (sit-in strikes before offices or homes of public figures). Such opposition is sometimes directed against central government, and sometimes against specific managements or officials.²

The Students' Council (Nava Nirman Samiti), Gujarat, gave a new dimension to the agitational approach in 1974. The success in Gujarat encouraged the opposition to try this method of mass upsurge in other States also, particularly in Bihar and U.P. In Bihar the ministers and legislators were not allowed to function, as their residences were gheraoed in order to force them to resign. After the emergency trade union agitations, suppressed during the emergency, were again on by June 1978 in Kerala. Led by Congressmen and Marxists, government employees and public as well as private sector workers threatened to strike and joint councils reappeared. The Congress Labour Minister, who was himself an active trade unionist, was gheraoed by agitators. He could neither denounce gheraos nor encourage them; while the Marxist leader, E.M.S. Namboodripad said that gherao was the workers' right. Trade unions appeared to be using this weapon against the 'exploiter'. However, physical violence against employers had stopped at least for the time being, after the assault on an industrialist. The state transport employees offered *dharna* at bus stations, in support of their demand for holiday on the second Saturday. Hunger strike was once again a common form of protest, but prolonged fasts were no longer in vogue. A new variation was the relay hunger-strike.

Previous to the Punjab police agitation, 1979 there were three instances of major insubordination by the police. In the early stages,

¹Myron Weiner, *The Politics of Scarcity*, p. 35.

²N.D. Palmer, *The Indian Political System*, p. 7.

after Independence, the Calcutta Police entered the Legislative Assembly and beat up the legislators; then in 1966 the Delhi Police refused to carry cut orders at a Ceremonial Parade for the Home Minister, and again in 1973 when the UP Provincial Armed Police went on strike and the Army had to be used to quell the uprising. Apart from these instances, there have been many smaller cases of disobedience and insubordination by the police. 'The police agitations clearly show a lack of rapport between the officers and men in their forces. Another striking feature is that a large number of IPS Officers' Associations have actually supported the striking policemen. This is partially because of self-interest for they feel that the Government, which is powerless when policemen rebel, will give in and in the wake of the reforms and concessions that follow their own emoluments, conditions of service, promotion opportunities and so on, will improve.'¹

The events in late August 1982 that brought Bombay to the very edge of the abyss of anarchy were set off by the policemen's spontaneous reaction to the crackdown on their Union leaders. 'The coercion into action of an indifferent authority by irate groups is now commonplace in Bombay. In most cases, authority has invited this public twisting of its arm by its callousness or inefficiency. The more successfully it is coerced, the more quickly its credibility erodes. Last week's total breakdown climaxed this trend.... Yet, legally constituted authority cannot now easily re-assert itself. Putting down mob-rule with a heavy hand is one thing, cracking skulls every time there is a demonstration of militant self-assertion by an aggrieved group is quite another.... Reckless development, sharpening inequity, venal politicians and popular defiance of authority are ubiquitous these days.'²

The farmers' agitation in Nasik and the neighbouring districts of Maharashtra for higher prices of sugarcane and onions highlighted a relatively new facet of rural unrest. Similar agitations have been organised of late in parts of Karnataka, Tamil Nadu, Andhra Pradesh, Gujarat, Punjab, Orissa, Bihar and elsewhere. Though their objectives differ all the way from securing more diesel to debt relief, they mark an unfamiliar and apparently dangerous phase in the politicalisation of the countryside. Something similar happened in Karnataka on a bigger scale. Some four months ago farmers in Belgaum, Dharwar and

¹K.P. Kandeth, 'Police Agitations and the Defence Forces', Indian Express, 2 July 1979.

²S. Abraham, 'Bombay's Whiff of Anarchy', Times of India, 28 Aug. 1982.

Shimoga districts started relay fasts before taluk and district headquarters and soon the movement turned violent. At least 20 persons were killed in riots and police firings that followed. By mid-September, the government gave in. It decreed a procurement price of Rs. 120 a quintal for fine variety of paddy against Rs. 105 fixed by the Centre; and it raised the price of sugarcane (with 8.5 per cent recovery) from Rs. 130 to Rs. 172.20 tonne. It also announced substantial price hikes for the procurement of maize, jowar, ragi and groundnut. But still the farmers were not satisfied.

'They are now asking for abolition of the betterment levy in irrigated areas, reduction of the water cess, cancellation of agricultural loans and, most significantly, an agreement in principle that agriculture would be regarded as an industry and that an attempt would be made to strike a new parity between the prices of industrial manufactures and farm produce. And, even though the state government has referred all these demands to a cabinet committee, the farmers co-ordination committee, led by Mr. H. S. Rudrappa, has launched a no-tax campaign to deny official and semi-official agencies all their dues. The pattern of the agitation launched by the Tamil Nadu agriculturists' association is more or less the same.'¹

During the last few months there had been a rash of reports about Naxalites. Most highlighted "encounters" between them and the police. These had taken place in Nalgonda district of Andhra Pradesh and North Arcot and Dharmapuri districts of Tamil Nadu. Some reports tell of the number of Naxalites that had been rounded up. In a crackdown in Idukki district of Kerala, for instance, at least eight of them were arrested a short while ago. Naxalities had become active not merely in the southern states. In West Bengal they attacked a police party near Cooch Bihar and killed two policemen. In Sironcha taluka of Maharashtra a policeman was shot down. Apparently as many as 1,000 Naxalites were operating in the region. In Chandigarh, during the special congress of one of the CPI (ML groups), a member of the central committee announced that they had decided to adopt "protracted people's war" as their strategy for achieving the objective of a "people's democratic revolution."²

The brutal murder of the Manipur CPI leader, T. Bira Singh,

¹K.C. Khanna, *Farmers on the War Path: A New Facet of Rural Unrest*, Times of India, 18 Nov. 1980.

²Gautam S.G. Vohra, 'Revival of Naxalite Activities', Times of India, 31 Dec. 1980.

at his residence in Imphal was of a piece with the mindless violence which the extremist groups had unleashed in the state. He was a candidate in the prestigious assembly constituency of Keishamthong where a keen contest was expected between all the principal parties. But it was highly unlikely that the rivalry between these parties had anything to do with the crime. Both the People's Liberation Army and the People's Revolutionary Party of Kanglei Pak sought to liquidate leftist leaders who opposed their secessionist objective. Bira Singh might well have been the victim of either of these groups.

'Dacoits, smugglers and boot-leggers are now honoured members of the legislatures. The police are demoralised or, worse still brutalised. Decisions are being taken less and less frequently on merit and more often for a consideration. Administrators are increasingly demanding a fee for doing their duty. Political parties have degenerated into loose alliances of local satraps united by the lust not for power but money... 'Here a chief minister sells favours to buttress his personal position vis-a-vis his own party. There a businessman buys concessions worth ten crores by contributing ten lakhs to the ruling party coffers. Elsewhere, political parties are busy recruiting muscle-men and criminals to capture booths and disfranchise the voters. And at still another place the government of the day is using policemen to do the booth capturing for them. These are the flowers of evil. Their fumes have poisoned the state, and vultures sit astride the carcass.

'Needless to say the opposite parties are not alone in this. The Congress too has now been seeking the help of dacoits and criminals in Uttar Pradesh, Bihar and Madhya Pradesh. Indeed, the party's willingness to accept black money from no matter who, has also made it a patron of smugglers, and hooch pedlars as recent events in Maharashtra and Karnataka have shown. The country cannot be turned around, and set on the road to health until the links between black money and political power on the one hand, and that between crime and politics on the other, are broken. It is significant that the Congress party itself has not always been against this. In March 1974, the parliamentary party asked Mrs. Gandhi to establish a state fund for meeting electoral expenses. Again in 1976 the government announced that it was preparing a bill to repeal the ban on company donations. But it fell shortly thereafter.'¹

'What is perhaps more eloquent of the way in which politics has been infested by criminals is the alarming rise in political murders in

¹Prem Shanker Jha, '*Black Money and Crime*', Times of India, 7 Dec. 1981.

the country. These are not confined to the traditionally disturbed northern and eastern states, but have occurred all over the country. Even Kerala witnessed no less than 90 political murders in 1980-81, while there were as many as 135 in Bengal in 1980. In Bihar three Lok Dal functionaries were assassinated in different parts of the state within 48 hours, a couple of months ago. All in all, the national newspapers alone have reported over a thousand political murders in the country in the 18 months from January 1980 to July 1981.'

They have now become indispensable in the rigging of elections. The most common malpractice, of capturing polling booths, consists of first intimidating people belonging to a specific village or caste (often the two overlap) into staying away from the polling booth. Then the cohorts of the candidate whose party is doing the rigging march up to the booth armed with the voters list, insist that they are such-and-such, number so-and-so, collect the ballot paper, cast their vote and queue up again to vote a second, third, tenth or twelfth time. 'This is where the dacoits come into the picture. For only when the threat is delivered by a man or men known to have killed before will it be believed. The politician therefore forges links with not just the criminal classes but the worst elements in them—murderers, rapists and kidnappers—people who are known to stop at nothing. The rising spate of political murders is a product of clashes between rival cadres of criminals.'¹

Declining Leadership. The central issue in Indian politics is how to fill the growing vacuum created by the precipitous decline of the old leadership and a rise of the new one. The Indian leaders may be divided into three generations. Nehru, Sardar Patel and Maulana Azad belonged to the first generation; Mrs. Gandhi, Chandra Sekhar and Atal Bihari Vajpayee to the second; and Sanjay Gandhi and the Naxalites and the leaders of the Assam agitation to the third. The first generation leaders were men of integrity and capable of performance. They had a vision of future India, even if it was a blurred one. They accepted considerable self-discipline and they lived by well understood norms. They left behind a series of un-resolved problems. The system they created had developed numerous contradictions. But they were able to achieve political integration and build a political system capable of achieving a measure of economic growth, and to a more limited extent, social change.

The failure of the second generation elite is manifest not only

¹Prem Shanker Jha, 'Politics and Crime,' Times of India, 30 Nov. 1981.

in its ideological equivocation, but also in the massive generation of black money. Black money and parallel economy are the main reasons behind the economic contradictions and the deepening economic crisis the country faces. The most disturbing aspect of the new situation is that the emerging third generation elite is also not averse to reliance on black money. 'The crucial issue is whether the third generation leaders possess qualities of character which can inspire confidence among the people. There is some reason to fear that they may not. If it turns out to be neither competent nor honest, the situation will certainly worsen. But if it fulfils one of the two conditions, things can improve, even if slowly. The new political elites are not accepting the informal rules of the dominant political culture. They also do not seem to believe in evolving new acceptable rules. Their approach is arbitrary. They work on the basis of command and obedience. There is a tendency among them to force issues.

'There is evidence to suggest that the recruits to the new generation Congress (I) leaders come from high-medium income groups and the educated unemployed. No other party has in the past won the allegiance of the latter. As against the trans-class second generation leaders the new ones are more class-based. . . . The third generation Congress (I) elite has clashed not only with other political elite but also with the bureaucracy. The bureaucracy had adjusted itself to the working of the Congress and Janata leaders with all their corruption. The new leadership is changing all that, but by such rough methods as may demoralise the bureaucracy. Since the new leadership is not revolutionary, it cannot afford to neutralise or demoralise or alienate the bureaucracy.¹

A.R. Antulay did not resign as Maharashtra's chief minister of his own volition or on account of any embarrassment the Bombay high Court judgment might have caused him, which apparently it did not. He resigned because the party high command found him too heavy a liability to carry after Justice Lentin's indictment. In fact, corruption and Antulay have got linked inextricably in the public eye so much so that the 'Antulay phenomenon' has come to be identified with and almost subsumed by corruption. 'For what Mr. Antulay represented, or rather, personified, is a form of rule in which arbitrariness is not peripheral but essential. It must consistently

¹Staff Correspondent, 'A New Generation Leadership, Old Men Discredited and Demoralised', Times of India, 16 June 1980.

violate all norms of government and canons of decision-making that are associated with a liberal-democratic modern state and its political process. It has no purpose or rationale larger than or beyond itself. It is devoid of any external determination that could invest it with social legitimacy and, in the final analysis, it enfeebles, corrodes and tends to destroy the very political system whose logic it seeks to express and of which it is a part.¹

Parliamentary v. Presidential Form of Government Debate. In his article 'Presidential Form of Government' published in the Times of India on 29 October 1980 Girilal Jain maintained that the presidential form was unsuited to heterogeneous India. The noted jurist and former judge of the Supreme Court H.R. Khanna, on 13 March 1982 warned that the presidential system of government was more vulnerable to subversion of those in power than the parliamentary system. There can be little doubt that there is a broad consensus among educated and articulate Indians in favour of the present parliamentary system as opposed to the presidential form of government. Opposition parties are certainly united on this issue. Self-proclaimed Marxist-Leninists continue to question the possibility of change through the ballot box. But even they have come to swear by parliamentary democracy.

This unity would have been heartening if it was the result of a thorough appreciation of the relative merits and demerits of the two systems in Indian conditions and if it was accompanied by a willingness to abide by the rules of the game. But that is not the case. It is possible that opposition leaders are opposed to the presidential system principally because they are nervous about Mrs. Gandhi's intentions. The debate needs to be lifted above her personality. Indeed, if the parliamentary system is working at all with any degree of coherence, the credit must go largely to her. She has won the elections for the Congress (I) and she alone holds it together. What after her? The country will need a leader and a viable party system. We give main points of the debate through interviews with prominent political leaders—Bhupesh Gupta, L.K. Advani, Y.B. Chavan, Madhu Dandavate, E.M.S. Namboodiripad and Chandrajit Yadav.

"This is a non-issue".—Bhupesh Gupta.

"The ruling party wants autocracy".—L.K. Advani

"The PM has more power than any President".—Y.B. Chavan.

¹Praful Bidwai. 'The Antulay Phenomenon : I-The Risk of the New Politician' Times of India, 19 Jan. 1982.

“We cannot afford the luxury of an academic debate”.—Madhu Dandavate.

“The situation could go from bad to worse”—E.M.S. Namboodiripad.¹

If the presidential system offers more stability, the parliamentary form assumes more responsibility. The presidential form of government has the merit of being comparatively stable and consequently gives greater freedom of action to the executive, especially because it is not affected by the malady of shifting loyalties on the part of legislators. The problem of defection, however, can be easily solved by appropriate legislation, and, if necessary, by constitutional amendment. The parliamentary form of government, responsible to the legislature and depending upon its confidence, has, on the other hand, the much greater merit of widespread involvement of the people in the task of administration. What is needed today is even wider—and more effective—involvement of the people in the process of nation-building than before. Real progress and development is not possible by a comparatively distant executive, but by the willing and voluntary efforts of all sections of the people.

Moreover, a parliamentary government is a much greater safeguard against authoritarianism and even coups. Recent events in Bangladesh effectively demonstrate this. A country governed by an effective parliamentary government, with collective responsibility, does not provide a congenial atmosphere for the forces of destabilisation. One principle which the history of civilised governments has firmly established is that concentration of power in one organ or one person must operate to the detriment of the interests of the people in the long run. That is why the system of checks and balances has been evolved in different constitutions of the world. All state power is accordingly divided between three separate organs : the Executive, the Legislature and the Judiciary.

VI. Future Prospects.

The fact that India has a strong, unifying force in the Congress Party should count as a blessing, no matter what view one may take of its performance in different fields. Its continuing dominance has undoubtedly helped in promoting greater political and economic cohesion thanks to its role in resolving conflicts deriving from ethnic, linguistic and religious diversities or the uneven development of different regions. But to acknowledge the large part played by the

¹Times of India, 30 Nov. 1980.

Congress is to accept that national unity still rests on narrow foundations.¹

The current political and socio-economic crises in India stem from our successes and achievements more than from our failures. The crises reflect, though in a distorted manner, our strengths rather than our weaknesses. Hence these cannot be resolved if we act as if they sprang from what we lack or have failed to achieve. It is by effectively mobilising our newly gained strengths and assets that we may meet the challenges confronting us and move forward to discharge our accumulated liabilities.

'The crucial variable in the operation of Indian society is the strength and vitality of its nationhood. It provides the basis as well as the encompassing frame-work within which the different tasks and problems have to be seen. For instance, with the virtual completion of the task of nation-building, individual political leaders do not have the same personal power of charisma as did Mr. Nehru. The quality and style of leadership were bound to change.'²

'In Indian politics democratic socialism is the common ideology of a number of socialist parties who want to differentiate themselves from communists or parties that have accepted Marxism-Leninism as their ideology.' Communists do not fight for abolition of democracy but for its extension. Even the communists do not counterpose violence to democracy, they counterpose peaceful methods to violence. Barring the parties of right reaction, most of the other political parties in Indian politics are pledged to socialism. A socialist India must have a socialist democracy, which would be different from the existing bourgeois democracy.'³

The turmoil in India must be viewed in the perspective of other upheavals. In almost every country of the world—in Eastern and Western Europe, in North and South America, in East Asia and the sprawling African continent—the social cauldron is on the boil, crime rates are going up, agitations and protests are the order of the day, and, all too often, the air reeks of violence. Indeed, as societies go, the Indian elite have over the years shown as much capacity for building stable institutions and ushering orderly change as any other. Few other democratic nations, for instance, can boast of having been ruled (barring a short interregnum) for nearly three decades by the

¹Dilip Mukerjee, *'The Task Before Us'*, Times of India, 15 Aug. 1972.

²Surinder Suri, *'Crisis of Development'*, Times of India, 3 Nov. 1981.

³A.K. Mukhopadhyay, *Society and Politics in Contemporary India*, pp. 155-56.

same party. The basic features of the Constitution, enacted in 1950, remain intact. Except for the fundamental right to property, nothing of major importance has been knocked out of the scheme of things envisaged by the Founding Fathers'.

'Another characteristic of the Indian elite is that no section of it runs anything approaching a "closed shop". It is flexible enough to allow, if not to welcome, outsiders in its midst. Indeed, the privileged, by and large, have a guilt complex towards the submerged poor. Atonement by caste Hindus for the brutal suppression by their forbears of Harijans and tribals, for instance, finds expression not only in constitutional provisions, but many of them genuinely wish to make amends. Altogether, this makes for a degree of vertical and lateral mobility in the social pecking order. An outcaste's son can aspire to be a minister and, if he does become one, he also earns the right to dine at the top table....

'On the whole, the Indian elite, which underpins the state, is a paradox; it is both rigid and resilient. Its manifest weaknesses—selfishness, competitive greed, tendency to fragment and penchant for infighting—are to a large extent offset by its evident virtues. It is flexible and open to new ideas. It is imbued with a sturdy common sense. It easily comes to terms with a fait accompli and it is quick to grasp new opportunities. It can avoid irreparable disasters but it cannot achieve any breakthrough. On its own, it can only jog along.

'But it responds to leadership. With the immense centralisation of authority in her hands, Mrs. Gandhi can still galvanise it effectively to resist external and internal pressures, as she did so brilliantly during those memorable years, 1962-72. But she must first restore the decencies of public life which have received a severe drubbing, particularly since 1975. One reason why the induction of Mr. Rajiv Gandhi into the portals of power has been so easily accepted is that he will share his mother's immense burden. The other is that he is a good man.'¹

To the foregoing account of hopeful things we may simply add the following : (a) Since independence, many difficult problems have been solved satisfactorily. (b) India's defence is quite strong to safeguard country's independence and security. (c) Economic growth and technological development have proceeded in a satisfactory manner. (d) Most of the people—in all sections of the society—believe

¹K.C. Khanna, 'Future of Indian State : Reasons for Hope', Times of India, 8 July, 1981.

in the ideals of secularism, socialism and democracy. (e) Institutions of parliamentary democracy at the national, state and local levels have struck deep roots. (f) Country's armed forces have so far kept aloof from politics and in all probability will do so in time to come. (g) India is the only country among the new states of Asia and Africa which has enjoyed relatively good degree of stability. In view of all these, we can look forward to better days ahead, in spite of evil forebodings.

Postscript

These pages deal briefly with developments which took place after the submission of the manuscript to the press as well as important ideas expressed and observations made with regard to various topics included in the book. The following treatment is in the order of chapters, references to relevant chapters being given in the footnotes.

*Reddy-Desai Letters.*¹ Within a month of the assumption of the Desai Government on 25 March 1977, the then President Sanjiva Reddy wrote a strong letter to Morarji Desai, asking his explanation on the controversial money spinning spree of his son Kanti Desai. According to the reports circulated at that time Kanti Desai had collected a massive amount of Rs. 86 crores from the various smugglers and others who were victims of the emergency. Sanjiva Reddy's letter of 14 January 1979 says : 'After I assumed office as President, I have done my best with considerable patience and perseverance to advise, caution and encourage you in the discharge of your heavy responsibilities as Prime Minister in the face of several difficulties now confronting the nation. It is a matter of deep regret for me to point out as President the dangerous drift that has set in and the resultant loss of direction in the governance of the country, not to speak of the implementation of the more basic programmes for the betterment of the people.'

The letter further says : 'I had repeatedly drawn your attention to the adverse inferences that were being drawn about your son, Shri Kanti Desai, getting off at Teheran during an unscheduled stop of the plane on your way back from a visit to the Soviet Union. If he was disembarking at Teheran to proceed to Europe, as was stated at the time, he could have proceeded from Moscow itself, instead of taking a devious route. The natural inference was that he had preferred to go there for some particular purpose. A few years ago

¹Chapter 6—Union Executive.

you made a disclosure in public that your son had no business interests abroad. When I asked you about his stop-over in Teheran, you told me that he had got off to go to London to wind up his business interests there.

'My unhappiness over these Iranian connections was conveyed to you when I heard that you were thinking of paying a second visit to Teheran on your way to the United States....I am fully aware of my constitutional responsibility as President. If I have spoken in public on some distressing aspects of present-day public life, it is only because of my anguish over the fast deteriorating standards and rapid erosion of our inherited Gandhian values and traditions. I see no harm at all in giving expression to my feelings of disappointment and distress over the dilution of our old values and creeping paralysis in public life.'¹

The Home Minister said in the Lok Sabha on 25 August, it seemed that Mr. Desai had given the letters to Mr. Arun Gandhi who was writing a book. Mr. Gandhi had apologised to Mr. Desai for reproducing the full text of the secret letters. 'In spite of our best efforts we have not been able to locate the correspondence in the Rashtrapati Bhawan and the Prime Minister's House'. As to the question whether the leakage constituted breach of the Official Secrets Act, Mr. Sethi said, Mr. Reddy and Mr. Desai had expressed divergent views on whether the letters were classified.

Verdict on Poll Petition against the President Reserved. The constitution bench of the Supreme Court hearing four election petitions against the President, reserved its judgment on some preliminary issues raised in the case on 10 November 1983. The Chief Justice explained that the doubts must fall within the framework of the laws regarding presidential election. The court cannot satisfy everyone's doubts regarding the suitability of the successful candidate because the unsuccessful candidates and others are bound to have doubts about the suitability of the successful candidate. Suitability is a very vague term, he said. Moreover, it is for the electorate to decide the suitability of the candidate. Courts cannot take up that role. The counsel for petitioners also argued that Mr. Zail Singh's nomination papers were wrongly accepted as the objections raised against them were not heard by the election officer. The judges remarked that that was no ground to hold the election void.

On 11 December 1983, the Supreme Court dismissed the three

¹Pioneer, 20 Aug. 1983.

selection petitions. The Court dismissed the petition of Charan Singh on the ground that the petition did not disclose any cause of action to set aside the election. The other two petitions were dismissed on the ground that the petitions had no locus standi to challenge the election. The Court held that it was for the electorate to decide the suitability of the candidate. Two other grounds, namely, the use of governmental machinery etc. were misconceived. The Court also rejected the plea of the petitioners that it had the power to decide all disputes or doubts relating to the election of the President and the Vice-President.

Ordinance-Making Power of President. Article 128 of the Constitution confers on the President a very important legislative power to promulgate ordinances during recess of Parliament. Through the President, this power is actually exercised by the executive, so it has been a subject of much debate and controversy over the years. Certain members had expressed misgivings on this provision and had suggested amendments in the Constituent Assembly itself. Their main objections were that the powers could be misused and that the time for the operation of ordinance was unduly long. It was also desired that it should be specifically provided that ordinances should not touch fundamental rights.

It has been held by our courts that the purpose or object behind issue of ordinances could not be gone into by any court of law. In other words, the validity of an ordinance made by the President (or by the Governor) cannot be questioned in courts on the ground that there were not sufficient reasons for promulgating an ordinance. The power of the President to issue ordinances was questioned in the Supreme Court recently in the National Security Act case. The Court vide its majority judgment observed: "It may sound strange at first blush that the executive should possess legislative powers, but a careful look at our Constitution will show that the scheme adopted by it envisages the exercise of legislative powers by the executive in stated circumstances. The Court did not go into detail on the question whether the Courts cannot go into the question if the pre-conditions of the exercise of the power conferred by article 128 are satisfied, as the ordinance was already replaced by an Act. However, the Court observed: "It is arguable that the 44th. Constitution Amendment Act leaves no doubt that judicial review is not totally excluded in regard to the question relating to the President's satisfaction."

A study of the ordinances issued in 1979 and 1980 shows that ordinances are on occasions issued just a few days before the commencement of the session. For instance, in 1979, the Reserve Bank

of India (Maintenance of Service) Ordinance and Additional Emoluments (Compulsory Deposit) Amendment Ordinance were promulgated on the 4th of July, 1979 although Parliament was summoned to meet on the 9th of July. In 1980, the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance was promulgated on 7.3.1980 although Parliament was to meet on 11.3.1980, the Essential Services Maintenance (Assam) Amendment Ordinance was promulgated on 6.4.1980 although Parliament was prorogued just a few days earlier, and the Code of Criminal Procedure (Assam) Amendment Ordinance was promulgated on 5.6.1980 although the two Houses were summoned to meet on 9.6.1980. The ordinances promulgated for the maintenance of law and order in Assam may be justified in view of the extraordinary situation prevailing in the State even though they were promulgated just a few days prior to the commencement of Parliament's session.

In order to avoid any misuse of the powers conferred on the executive under article 128, it is suggested that the Constitution may be suitably amended to provide that no ordinance shall be promulgated for at least a fortnight prior to the commencement of the session. At the same time, a parliamentary committee consisting of members of both Houses of Parliament, the composition of which is in proportion to the strength of the parties, may be constituted. This committee must be taken into confidence and its approval obtained before any ordinance is promulgated.¹

*MPs' Salary Raised.*² Both the Houses of Parliament on 26 August 1983 passed a Bill to enhance the salaries of the members to Rs. 750/- per month from Rs. 500/-. Their daily allowance was also raised to Rs. 75/- from Rs. 51/-. During the debate, Sudhir Kumar Giri (CPM) said it would be an "act of immorality" if MPs increased their own emoluments when the people were suffering on account of high prices and living in very difficult conditions. But Subramaniam Swamy (Janata), who supported the measure, said members should give up the "false concept" of simplicity. The people at large wanted work and productivity from members and did not bother how they lived or travelled. Membership of Parliament had become a full-time job and the increase would go a long way in making MPs render better service to the people, he said.

¹C.K. Sucharita, 'Indian Parliament at Work : Some Suggestions for Reform,' J.C.P.S., Jan-Dec. 1983, pp. 194-98.

²Chapter 7—Indian Parliament.

Government to Amend Statute on Delimitation. The Union cabinet has accepted some of the recommendations of the Election Commission on the question of delimitation of Lok Sabha and Assembly constituencies and the use of electronic voting machines.¹ According to official sources, the cabinet, at its meeting on 8 July, agreed to amend the relevant article in the Constitution to provide for a fresh delimiting of the constituencies without increasing the total number of seats allotted at present to various states. The purpose of the amendment is to rationalise the present division of the states into territorial constituencies while the total number of seats of each state in Parliament and State Assemblies would remain frozen until 2,000 A.D. under an earlier amendment to the Constitution. The Election Commission, it is learnt, had recommended the delimitation of four states—Bihar, Karnataka, Maharashtra and U.P.—to start with.

*Office of Governor Has Been Subverted.*² A White Paper on “The Office of the Governor : Constitutional Position and Political Perversion,” placed on the table of the Karnataka Assembly by Chief Minister Rama Krishna Hegde said : “Governors have not only lent their services to keep the opposition parties out of office but also to help the Congress Party resolve its internal feuds.” The two-part document explains at length both the constitutional position of the Governors as envisaged by the framers of the Constitution and the political perversions of the high office over the years. The second part lists case studies of deviations from the constitutional position at the instigation of the ruling party at the Centre.

It mentions cases of Governors who have dabbled in politics while being in office from the days of A.P. Jain in Kerala in 1966 to the latest case of H.J. Talyerkhan in Sikkim. It shows how Governors have applied double standards in regard to the appointment of chief ministers and dissolution of legislatures, depending upon whether the Congress Party stood to gain or lose by their decision. Among the cases covered in this regard are those of Sampurnanand of Rajasthan in 1967, B. Gopala Reddy of Uttar Pradesh in 1970, and G.D. Tapase of Haryana in May 1982. The White Paper said that it was universally accepted that article 356 on imposition of President's Rule has been abused.³

‘The White Paper is a damning indictment of the manner in which the “clear constitutional position has been subverted by destroy-

¹See Chap. 15.

²Chapter 8—State Executive.

³Indian Express, 23 Sep. 1983.

ing the Governor's independence and suborning his impartiality." This, despite a Supreme Court ruling in the Raghukul Tilak case that the Governor holds "an independent constitutional office which is not subject to the control of the Government of India." Yet by deliberately reducing him from an independent head of State to a mere agent of the Centre, both the federal principle and democratic and parliamentary proprieties have been grossly violated for narrow partisan ends by successive Congress governments. At a time when the Centre itself has set up a commission to inquire into Centre-State relations, studied comments by the States on relevant issues such as the role of the Governor are not out of place. The Governor is a key figure whose powers and functions are set out in Part VI of the Constitution dealing with the States. It is, therefore, legitimate for a State Government to offer views on the role and conduct of Governors. The Karnataka White Paper is a well-documented study and a valuable contribution to what should be a national debate.¹

The Andhra Pradesh Legislative Assembly on 24 March 1983 adopted a resolution seeking the abolition of the Legislative Council. The Chief Minister described the passage of the resolution as "historic", as abolition of the Council would end a kind of anachronism in the State.

Ordinance Raj in States. Two events have been reported from Uttar Pradesh which must cause grave disquiet. Ordinance Raj has established itself in the State. The Government issued no less than 11 ordinances at the beginning of this week, many of them being re-issues of ordinances already promulgated, some five times over, in the last two years but not ratified by the Assembly. This is a deplorable tactic to bypass the legislature by resort to executive fiat. Things in UP may not be as bad as in Bihar in 1974, when something like 70 ordinances were promulgated. But it is a sign of the scant respect that is given now to institutions and institutional processes that ordinances once regarded as exceptional measures, have become the rule. The disease is eating into the whole body politic. Assembly sessions are often cut short to give the government relief from opposition attacks, and the resultant truncation of legislative business, is overcome by ordinances.²

A startling analysis of the wholly illegitimate if not extra-constitutional manner in which Bihar has been administered by successive

¹Editorial, Indian Express, 28 Sept. 1963.

²Pioneer, 19 March 1983.

government since 1967 through "Ordinance Raj" has been vividly narrated by D.C. Wadhwa in a just-published book entitled "Re-promulgation of Ordinance : A Fraud on the Constitution of India". Documentation of the gross abuses of article 213 of the Constitution, empowering the Governor to promulgate ordinances which have never been brought before the legislature for validation but have been re-promulgated in identical form time and again.

Indeed, according to Wadhwa's inquiries, the procedures have been so streamlined that immediately on the conclusion of each legislative session the Parliamentary Affairs Department sends out a circular letter to all departments and agencies concerned informing them of the date of the next session of the legislature and asking them to get in touch with the Law Department and take immediate steps to get their ordinances re-promulgated before their expiry date, which would constitutionally be six weeks after the re-assembly of the legislature. The Law Department prepares appropriate lists of ordinances requiring revalidation by the Governor or the consent of the President of India and forwards this to the Governor's secretariat. The Governor's office in turn forwards the latter list to the Home Minister in Delhi for seeking the President's approval as and when necessary.

Wadhwa's investigations expose the dishonesty of this automated ordinance making. The disease started in 1967. Ever since, the length of legislative sessions has shrunk and with it the number of laws enacted while the list of ordinances promulgated and re-promulgated has increased alarmingly. A careful study of the relevant dates shows that the State Government has not had the slightest intention of bringing certain ordinances before the legislature and has cunningly used the extra time constitutionally allowed when a state has a bicameral legislature (as in Bihar), and the one House meets later than the other, to so programme the automated ordinance system as to defeat the legislature and yet keep just within the narrowest technical interpretation of the letter of the law.¹

*Central-State Relations: Need for Review.*² The Government of India announced on 24 March 1983 the appointment of a one-man commission, consisting of R.S. Sarkaria, retired judge of the Supreme Court. Making the announcement, the Prime Minister said : 'The Commission will examine the working of the arrangements between the Centre and the States and recommend such changes in the said

¹Indian Express, 30 Sep. 1983.

²Chapter 11—Union-State Relations.

arrangements as may be appropriate within the present constitutional framework.' She added: 'While keeping in view the social and economic developments that have taken place over the years, such a review will take into account the importance of the unity and integrity of the country for promoting the welfare of the people'. 'Two more members have been added to the Commission. The Commission will devise its own procedure for the discharge of its functions and the Commission may, if it deems it necessary so to do, have investigations or examination of such matters as it may deem fit, to be made in such manner and by such persons as it may consider appropriate.' Thus the terms of reference have given wide powers to the Commission in not only what to examine but also how to examine it.

Noted economist, H.K. Parnajpe, in his theme paper 'Centre-State Relations in the Indian Union' presented at a seminar on Centre-State relations organised by the Economic and Planning Council of the Karnataka Government, stressed the need for removing central interference in areas of the States' normal governance. The institution of centrally nominated Governors "who operate as instrument of central leaders has to go", he added. He further said that in view of centralised decision-making and planning the States had failed to understand that it was they who had to bear the real burden of developing the nation.¹

A lengthy statement issued at the end of seven-hour deliberations at the Vijaywada conclave of opposition parties on 28 May made a frontal attack on the Central Government for encroaching upon the powers of the States. It demanded a fiscal commission, enlargement of the Sarkaria Commission with wide terms of reference and review of Centre-State relations to restore the spirit of the Constitution.²

The three-day opposition conclave held at Srinagar called upon the people to save the country from disintegration by halting the "dangerous drift" due to the centralization of power and distortion of the Constitution. It issued a consensus statement seeking a full review of Centre-State relations, checking of unitary overtones which overshadow the federal features of the Constitution and changes in the centralised pattern of economic and financial administration. It added that to end the present tensions and disputes between the Centre and the States, it was necessary to curtail the arbitrary powers of the centre with respect to the States. It suggested that article 257 which enabled

¹Pioneer, 25 March, 1983.

²Times of India, 29 May 1983.

the President to dissolve the State Government or Assembly should be suitably amended. It should be obligatory for the Centre to hold election within 6 months in case of a constitutional break-down. If elections cannot be held due to violence, the President should consult the Inter-State Council as proposed in article 263.¹

'It is open to question whether, despite their best efforts, opposition parties will succeed in putting Centre-State relations among the top items on the country's political agenda. For one thing, the issue appears to be too abstract to arouse popular passions. For another, it is not easy to offer a solution which can meet the nation's contradictory needs. The White Paper issued recently by the Karnataka state government on the office of governor illustrates the second point. While it leaves little room for doubt that this office has been abused in the interest of the ruling party at the Centre, it does not even attempt to suggest a solution.'²

*Transfers of High Court Judges.*³ The Union Government is taking steps to complete implementation of its decision to appoint chief justices of all high courts from outside the states by early next year. There is a policy decision taken by the Government with the concurrence of the Chief Justice of the Supreme Court that all chief justices should be from outside the state and at least one-third of the strength of each high court should also be from outside the state. This policy decision was taken by the Government. It is stated that it would inspire more confidence in the judiciary.

'Ostensibly, it is all very well to argue that the integration of the country will be fostered by making the posts of the High Court Judges transferable. Vested interests may take roots, so runs the argument, if the High Court Judges become permanent fixtures in their states. The Law Commission had recommended that there should be a convention by which one-third of the judges in each High Court should be from another state. The Government promptly accepted the recommendation. It is not only carping critics who point out that the Government was anxious to use this transfer provision as a potent weapon to be used against the so-called "recalcitrant" judges who are not of the "committed" variety.... The overtones of politics have become all the more-pronounced since Jammu and Kashmir Chief Minister Farooq Abdullah branded the decision to transfer judges as another instance of the Centre violating the autonomy of the states, particularly those

¹Times of India, 9 Oct. 1983.

²Girilal Jain, 'Centre-State Relations : No Fool-Proof Solution', Times of India, 12 Oct. 1983.

³Chapter 12—Indian Judiciary.

ruled by non-Congress (I) governments. He has been supported by other regional parties which have criticised the proposed transfers as illegal, unconstitutional, and malafide.¹

*Mandal Commission Report.*² The Home Minister on 19 August told the Lok Sabha that a Cabinet Committee had been appointed by the Prime Minister to go into the recommendations of the Mandal Commission Report on Backward Classes. It had been asked to submit report within a month. The Government was committed to the principle of reservation for backward classes, so it was only a question of how much percentage, he said. The non-Congress (I) ruled states want the Mandal Commission Report to be implemented as it would embarrass the Centre and Congress (I) ruled states. 'If the recommendations are accepted in their totality, some of the so-called backward classes, the politically ambitious and economically powerful intermediate castes, for instance, the Jats and Yadavs in the north, which sought such privileges during the Janata administration, would be the beneficiaries of such a bonanza. Merit is already a casualty. About a million young graduates and post-graduates in the humanities, social sciences, engineering and medicine, belonging to the so-called upper castes, are unemployed. Due to the existing reservations around 80 per cent of the jobs are already closed to open competition. To cite only one example, in Maharashtra, 20% of the jobs are reserved for backward communities, 10% for other backward classes, 3% for the physically handicapped persons, 15% for ex-servicemen, 5% for those displaced by development projects, and 23% for the economically weaker sections, with an annual income of less than Rs. 4,800.00.³

Union Finance Minister, Pranab Mukherjee on 26 July 1983 announced the composition of the fourth Central Pay Commission under the chairmanship of Justice P.N. Singhal. The Minister also announced interim relief which would benefit all categories of over 4.6 million Central Government employees.

*Election Reforms.*⁴ On the question of electronic voting, the government has accepted the proposal in principle and the Election Commission has already tried it successfully on a trial basis in a number of states. Delivering the key-note address at a seminar on election reforms in New Delhi, the Chief Election Commissioner called for

¹'Deflating the Judiciary', editorial, Pioneer, 21 Aug. 1983.

²Chapter 14—Civil Services,

³K.N. Pande 'Politics and Mandal Commission Report', Pioneer 8 Sep: 1983.

⁴Chapter 15—Electoral System and Voting Behaviour.

compulsory registration of all political parties and creation of a fund to meet the election expenses of the candidates. The state should provide paper, electoral rolls, the printing of a limited number of posters, petrol and diesel coupons for a restricted number of vehicles, postage and payment of polling agents and other personnel, he said. He also suggested the banning of defections through an amendment to the Representation of the People Act, 1951. Political parties should maintain detailed accounts.

In its report presented to the Lok Sabha on 13 December, the Election Commission has recommended the following reforms: (i) Regional Election Commissioner should be appointed in every state whenever elections are held. The political parties and contesting candidates may approach him to ventilate their grievances and seek redress (ii) President or Governor's rule in a state at the time of holding general elections to State Legislative Assembly is the ideal solution". (iii) 'Service voters' should be permitted to vote at the polling station covering the area, in which they have been ordinarily residents but for their service. (iv) The term of the Jammu-Kashmir Assembly should be reduced to 5 years as in the case of others.

Recent Elections in Assam. The Election Commission says it cannot be denied that the recent elections in Assam were 'an unfortunate traumatic experience' and 'nobody would wish a repetition of such an experience.' And yet the Commission says 'one could argue that no sacrifice is too great for upholding the constitutional mandate for democratic rights of the people to exercise the freedom of choice, which was at stake in Assam'. Stating that the conditions in Assam were not ideal for holding the elections the Commission says 'fine but sensible' distinction has been made between violence relating to the election process and arising out of other circumstances though synchronous with polling. Barring alleged incidents of intimidation, harassment, coercion of individual voters, and a few cases of snatching away of ballot boxes, it says, cases of violence under the former (election process) were almost negligible practically involving no loss of life. The report says: 'the social malcontents, however, taking unfair advantage of the pre-occupation of the administrative machinery with the elections resorted to organised and pre-planned violence.'¹

*Zila Parishad in U.P.*² The U.P. Government decided in May 1983 that it would nominate 19 members in every Zila Parishad for which elections have taken place. These were to include—8 Harijans, 4 women, 5 progressive farmers, 1 freedom fighter and 1 ex-

¹Indian Express, 4 Aug. 1983.

²Chapter 16—Local Government.

serviceman. Formerly, there was provision for co-option of such members. All the opposition parties strongly protested against and expressed their resentment at this undemocratic step, and the Government had to revise its decision.

District Administration in Bihar. The interlinked nature of law and order, revenue and relief administration, on the one hand, and development functions, on the other, necessitated the restoration of a traditional unitary administration at the district level. Law and order has been regarded as a pre-requisite of development activities. Beyond a point, law and order itself has been influenced by development and welfare activities. Likewise, the relief measures, once regarded as distribution of doles and implementation of unproductive schemes, have become a part of the annual plan. Revenue administration now includes all the measures of land reforms, such as implementation of ceiling laws, upholding the rights of share-croppers, consolidation of holdings, etc. 'Thus, in a welfare state, all the activities of the government are interconnected, which were once divided as regulatory, executive and development or welfare activities isolated from each other.' While these factors convinced the state government of the need for restoring the traditional district officer system, the urgency of implementing the 20-point programme during the emergency further necessitated the strengthening of the authority of the district officer.

The Government of Bihar, therefore, decided to restore the old pre-eminent position of the district officer and to make him a centre of the district administration for effective governance. Accordingly, in PR districts, the posts of DDC and the ADDCs were abolished and the district officer was once again made to represent the government in the district. The creation of the three-tier PRIs (Panchayati Raj Institutions) in all the districts of the state in 1980 and the government decision to devolve executive responsibilities on zila parishad, again called for a new look at the district administration. In keeping with the new contours of PR a new post of DDC-cum-chief executive officer has been created in each district. The DDC is in-charge of the execution of the programmes and has been made team leader of the district level officers of the different departments concerned with rural development and welfare. Like a previous DDC, he has again been entrusted with the powers of operational control over the officers and staff concerned with the rural development at the district and block levels.

'The argument put forth by the government in retaining the position of pre-eminence and maid-of-all work of the district officer

are usual ones. Firstly, the district officer is responsible for maintaining law and order, meeting natural calamities, conducting elections, census operation, collecting loans, etc., which require the services of officers and staff of various departments. It is only by making him overall controlling officer in the district that he can requisition the services of district level officers and those working under the control of the zila parishad and panchayat samitis. Not only this, The district officer can initiate disciplinary action against them and, if necessary, order their suspension or recommend such action to the competent authorities. Secondly, the district officer is incharge of 20-point programme and coordinating and supervisory officer of tribal and Harijan welfare programmes. For purposes of operation of these programmes, the previous position of the district officer as the coordinator and team leader has been retained. And, finally, the government has specially stressed the supremacy of the district officer on the ground that "historically he has been the representative of the government in the district and that the people look up to him for redressal of all their grievances and solution of all their problems."¹

*Congress and Rashtriya Sanjay Manch.*² The entire unit of the Congress (S) in West Bengal merged with Congress (I) on 27 March 1983. The alignment of the Marxists and the Congress (S) in Assam was not to the liking of the Congress (S) unit in West Bengal. Maneka Gandhi announced the formation of her new political party - Rashtriya Sanjay Manch - on 27 March 1983. She claimed a membership of eight lakhs. She emphasised that the focus of her party would be on youth and employment.

Telegu Desam. NTR who launched a tirade against "Congress culture" has himself adopted some of the traits of the Congress (I). Telegu Desam, people allege, is a one-man party and NTR is the absolute ruler. "Only Anna knows" has become the pet phrase of most of NTR's partymen. He has also placed his close relatives in key positions. His son, Jai Krishna, was recently made the chief of the Telugu Desam Yuvata which is the newly formed youth wing of the party; and a son-in-law of his, Chandrababu Naidu, is a very influential member even though he holds no position.³

¹Haridwar Rai and Awadhesh Prasad, 'Restructuring District Administration in Bihar : Restoration of the Campbellian Idea', I.J.P.A., Jan-March 1983, pp. 64-6.

²Chapter 18—Political Parties.

³Shankarshan Thakur, 'One-Man Party'. Pioneer 28 Aug. 1983.

The BJP Meet. The national executive of the Bharatiya Janata Party in its resolution on the Centre-State relations demanded reorganisation of "some unwieldy States" into smaller and more manageable units for better administration and quicker economic development. While advocating a strong Centre as well as states within the ideal of a strong united India, the BJP opposed the proposal made by some opposition parties that the Centre's jurisdiction should be confined to just four subjects —defence, external affairs, currency and communications.

Supporting the "just complaint" of states against the "flagrant and repeated abuse" of article 356 of the Constitution by the Centre, arbitrary appointment and transfer of high court judges, unilateral constitution of the Planning Commission and misuse of radio and television, the BJP urged the President to invoke article 363 to constitute an inter-state council to take care of these and other inter-state and Centre-State issues. While expressing its concern over the office of the governor having been devalued and reduced to that of a minion of the Centre, the BJP alleged that governors have been shuffled around like a pack of cards and state governments have been treated no better than municipalities. The BJP demanded that the office of the governor must acquire its intended dignity and impartiality.

The National Executive of the Bharatiya Janata Party, which concluded its three-day session in Lucknow, has said a great deal that is unexceptionable. The party's plea to the Akali Dal to withdraw its morcha makes good sense. Whether one agrees or not with the assumption of the imminence of an election, one can hardly quarrel with the party's demand that the Election Commission should monitor the functioning of Doordarshan and Akashvani to prevent their misuse by the ruling party during elections. The demand that governors should be appointed after consultation with the States is aimed precisely at precluding the appointment of people who would be Delhi's rubber stamp. 'There are issues on which there is a wide consensus among non-Congress (I) parties. The only exception perhaps is in the area of Centre-State relations where the BJP's position is different from those who would leave the Centre only with defence, external affairs, currency and communications. It is, therefore, a paradox that notwithstanding such wide overlap of views there should be a growing cleavage between the BJP and the Lok Dal on the one hand and the five-party United Front on the other.'¹

¹Indian Express, editorial, 25 Oct. 1983.

*By-Election Results.*¹ The Karnataka Chief Minister Ramkrishna Hegde, on 16 May, won the Assembly Election with a thumping majority of more than 23,000 votes, signifying an electoral success for the ruling Janata Party. The Congress (I) candidate against Hegde polled 22,199 votes. The Telegu Desam maintained its sway over the electorate in Andhra Pradesh by wresting the Peddapaili Lok Sabha seat from the Congress (I) and retaining the Tadepalligudem Assembly seat in the by-elections held in the third week of June 1983. In Maharashtra, the Congress (I) won Sangli Lok Sabha seat, but lost Patan Assembly seat.

A Set-back for CPM. The results of the panchayat elections in West Bengal constitute the first serious setback for the CPM-led left front which has ruled the state since 1977. At first glance such a conclusion may appear unwarranted. Although the CPM has annexed a clear majority of the gram panchayat, as well as panchayat samiti and zila parishad, seats and it retains a wide margin over its nearest rival, the Congress (I), yet a comparison of the 1983 results with those of 1978 reveals a picture that should be sobering for the left front. 'By capturing around 14,000 gram panchayat seats this time as against a little over 4,000 in 1978, the Congress (I) has staged a remarkable recovery in rural Bengal which had been taken to be a near-impregnable stronghold of the CPM. The CPM's tally is well short of its 1978 performance when it had won a little over 28,000 seats. The results confirm a polarisation of support in Bengal between the CPM and the Congress (I).'²

Jammu-Kashmir. Abdul Ghani Lone, Chairman of the People's Conference who has won 1 Assembly seat, claimed that he had won the other seat also, but the returning officer a man of the Chief Minister, fraudulently declared the result in favour of the National Conference candidate. He described the elections in Kashmir Valley as a "farce" and a "fraud on democracy" and accused the Election Commission of India and the Central Government of having failed to give the people of Kashmir Valley a fair and free election. He demanded an inquiry by a Supreme Court judge into what he termed as "mass rigging" by the ruling National Conference with the help of the state administration. Opposition members in Jammu and Kashmir Assembly on 14 July also demanded a probe by an impartial commission of inquiry into what they described as the "Open and massive rigging of recent

¹Chapter 19—Party Politics and Party System.

²Editorial, Times of India, 6 June 1983.

elections by the ruling National Conference.” The demand was made during discussion over the motion of thanks.

‘In spite of assistance by the state administration and the police the ruling National Conference has not been able to improve its political strength as a result of recent state Assembly elections. It has only been able to retain its numerical strength in the Assembly. The Congress (I), however, has shown spectacular results. It has more than doubled its strength from 11 seats in the dissolved Assembly to 26 seats in the new Assembly. The 26 seats, include three from Kashmir Valley and 23 from Jammu.’¹

The election to the Vidhan Sabha in Jammu and Kashmir has been far from peaceful and in that sense not quite free and fair. Even so the results should by and large be accepted as reflecting the popular will. ‘By any reckoning, it has been a momentous election. It is bound to have far-reaching repercussions for the state and possibly for the whole country. The identity of the principal contestants—the National Conference and the Congress (I)—the determination with which they have fought the electoral battle, the violence that the fight has generated, and finally the results (not fully out) have all combined to give the poll an extra-ordinary importance. . . Delhi had been a Jana Sangh stronghold and the Congress (I) had successfully stormed it. Mrs. Gandhi has now repeated it in the Jammu region. And it appears certain that if there was a poll in Punjab tomorrow, a vast majority of the Hindus there would vote in favour of the Congress (I) and not the BJP.’²

Opposition Alignments. The National Democratic Alliance (NDA) of the Bhartiya Janata Party and the Lok Dal was formally launched on 17 August 1983, with Lok Dal President Charan Singh as Chairman of its Coordination Committee, leaving the parliamentary wing under the stewardship of his BJP counterpart A.B. Vajpayee. BJP general secretary L.K. Advani became the leader of the Alliance in the Rajya Sabha. The NDA has 41 MPs in the Lok Sabha and 21 in the Rajya Sabha.

The Janata, Congress-S, Democratic Socialist Party and Rashtriya Congress on September 4 decided to enter into an alliance, named the United Front. The members of the committee would be Shri Sharad Pawar—president of the Congress-S; Shri Ratubhai Adani—president of the Rashtriya Congress; Shri H.N. Bahuguna—president

¹C.B. Kaul, ‘Congress-I Real Victor in Kashmir Poll’, Indian Express, 24 June 1983.

²Girilal Jain ‘Momentous Poll in Kashmir’, Times of India, 9 June 1983.

of the DSP; Shri Biju Patnaik—leader of the Janata Party and Shri I.K. Gujral—former Union Minister. Shri Chandra Shekhar was formally named chairman of the fiveparty United Front (UF) at its meeting held on September 18. The Janavadi Party led by Shri Charanjit Yadav also joined it. But the Congress (J) on September 25 made it clear that it would not join either the United Front or the National Democratic Alliance.

The UF will function both inside and outside the legislatures and would 'endeavour to ensure wider consultations with other democratic and progressive forces and parties. It also left its doors open for any possible understanding with the two Communist parties, besides state-based parties like the Telegu Desam and the National Conference. Chandra Shekhar, President of the Janata Party, was elected Chairman of the Co-ordination Committee.

The four-page policy statement approved by its co-ordination committee said, the United Front would seek to create a forum for a broad consolidation of forces of democracy, secularism and socialism that would defeat authoritarianism and status quo and usher in a new socio-economic order based on justice and equality. It also calls for more economic powers to states, curbs on the Centre's powers to dismiss governors, and drastic revision in the procedure for their appointment, electoral reforms, lowering of voting age to 18 and promotion of small-scale industries. It suggested that foreign policy based on anti-imperialism, non-alignment, unequivocal support to freedom of nations and world peace "must acquire dynamism" and strengthening of friendship with neighbours must receive high priority.¹

Some Comments. 'Choudhry Charan Singh has been a star performer in the unity circus staged by the frustrated and fragmented Opposition parties from time to time. The fare offered to the public is entertaining, if not exactly edifying. Prime Minister Indira Gandhi has ridiculed the new alliance between the Bharatiya Janata Party and the Lok Dal as a "joke". Not so long ago, Mr. Charan Singh had suddenly developed a secular conscience. He broke away from the Janata Party, objecting strongly to the Jana Sangh's "RSS connection". But all is forgotten and forgiven now and Mr. Charan Singh sees nothing wrong in making common cause with the BJP, which is a reincarnation of the erstwhile Jana Sangh. Till recently, Mr. Charan Singh was hobnobbing with another former foe, Mr. Jagjivan Ram ; to be

¹Indian Express, 18 Sept. 1983.

precise, and a merger of the Lok Dal and Congress-J was widely believed to be in the offing. The union failed to materialise, reportedly because both Mr. Charan Singh and Mr. Jagjivan Ram insisted on heading the new party. Mr. Charan Singh had been feeling increasingly isolated and his latest team-up with the BJP is indicative of his desperation. His credibility having already slumped to zero, he has nothing to lose.¹

From the former united Janata Party, two new combinations have come into being, namely the BJP-Lok Dal alliance and four-party alliance. The former combination has reservation in having any alliance with the newly formed U.F. The leftist parties are now more or less certain that there would be triangular or quadrangular fights in the elections. So far as the *modus operandi* and objective of the two combinations are concerned they will be like Tweedledum and Tweedledee. The only difference is that while new front is keeping its doors open for any possible understanding with two communist parties and state-based parties, the NDA has more or less made it clear that it regards two as company and three or more as a crowd. But both the contracting parties are regarded as 'untouchables' by the other opposition parties. The newly formed combination also does not add up to much. It will have 36 members in the Lok Sabha as against 41 of the NDA. In the Rajya Sabha the strength of the front will be 27 as against 20 of the NDA. Neither of these two fronts thus offers any threat to the Congress (I) either now or in the immediate future.²

'The four-party united front, built around the Janata, is the second such combination of opposition parties to take shape in recent weeks. The first was the National Democratic Alliance consisting of the Lok Dal and the BJP. The new grouping does tidy up the fragmented opposition scene somewhat but does hardly anything beyond that. The talk about the united front being a "democratic, secular and progressive" alternative to the Congress (I) is more rhetorical than realistic. For one thing, it is a tall claim for the sponsors of the new front to make that it can take the place of both the Congress (I) and the Lok Dal-BJP alliance which was denounced by Mr. Chandra Shekhar only the other day as "worse than even Mrs. Gandhi." 'Whatever that might mean. The Lok Dal-BJP combination has in the Hindi-speaking states a kind of base which the Janata-led combination cannot boast of anywhere, not even in Karnataka where the Janata

¹'The Unity Circus', editorial, Pioneer, 12 Aug. 1983.

²Pioneer, 6 Sept. 1983.

came to power in January (1983) with BJP's support. For another, the three parties that have joined hands with the Janata hardly count for anything. ... Obviously the United Front hopes, not without justification, that it would be better able to attract the support of the two communist parties than the Lok Dal-BJP alliance. For, given his choice the CPI and the CPM, irrespective of their own mutual relations are likely to favour a left-leaning combination. Even so, it is too soon to forecast the likely course of events, especially when the relations between the two communist parties themselves are under considerable strain ¹

The formation of not one but two non-communist opposition alliances indicates how political parties are gearing themselves for the next general election. The preponderance of the personality factor and the lack of minimal agreement on issues, an agreement that was not even considered necessary to seek seriously, have been the bane of the opposition, notably after the flash-in-the-pan coalescence of the 1977-79-Janata. Members of both alliances are now coming together much more cautiously. For instance, they have been careful to avoid merging their identities on the disastrous 1977 Janata model. 'The prospects of the two alliances becoming one expanded combination even while each constituent remains a separate entity, are rather dim. In fact, they are likely to be intensely competitive. The United Front has already declared its abhorrence of the BJP's communalism. 'The coming together of six opposition parties, only three of them of significance, in two alliances is only superficially a step towards the consolidation of a customarily fragmented opposition.'²

The opposition parties which met in Srinagar, minus the Lok Dal and BJP, arrived at a broad consensus on a wide range of issues pertaining to Centre-State relations. 'It is, however, noteworthy that the majority of delegates declined to go as far as the Akalis and Telugu Desam wanted in whittling down Central powers. Mr. N.T. Rama Rao's reported description of the Centre as a conceptual myth was clearly unacceptable as was the Akalis' suggestion that the States should be vested with all powers excepting foreign affairs, defence, communications and currency as spelt out in the Anandpur Sahib Resolution. The others, particularly the leftist parties, stressed the importance of unified national planning even if they sought to enlarge the financial autonomy of the States with a more balanced distribution

¹'Opposition Alignments', editorial, Times of India, 8 Sep. 1983.

²A.S. Abraham, 'The Politics of Alliances', Times of India, 16 Sep. 1983.

of the resources going into the divisible pool. The main thrust of the gathering was to call attention to the danger of national disintegration from the erosion of the federal concept with a tendency towards growing centralisation of power resulting in the distortion of the Constitution.¹

Government and Opposition. The Prime Minister firmly rejected the economic and political demands of the opposition conclave. About N.T. Rama Rao's suggestion that the Centre should confine itself to four subjects—foreign affairs, defence, communications and currency—and that the Centre was a “conceptual myth”, Mrs Gandhi said, “Mr. Rama Rao knows more about myths and mythology.” How could the country keep together without the Centre? These four subjects were linked together and with other subjects like industry and finance. She regretted that the opposition leaders did not give high priority to the recent happenings, particularly terrorism, violence, extremist activity and re-emergence of communalism in their deliberations.... What they were trying to say now was that there should be an India without a Government of India, Mrs Gandhi said, while referring to the utterances of some opposition leaders. Quoting the preamble of the Constitution Mrs Gandhi reminded critics that ‘India is a Republic and not a union of republics.’²

Initiating the proceedings of the two-day session of AICC at Bombay. Mrs Gandhi accused the opposition of non-cooperative attitude towards the Government and of indulging in fissiparous activities. She doubted the bonafides of the opposition because of its hesitation in denouncing the activities of the extremists aimed at disrupting the national integration. In her speech, she pointed out that the opposition conclave at Srinagar had been held to show their “national unity”, but immediately after the conclave some elements humiliated the Indian cricket team in the city. And they did not even condemn it then.³

Janata Party president Chandra Shekher said that if Mrs Gandhi genuinely felt the need for a national consensus on basic national issues, she would have to change her style of functioning. Addressing a press conference, he said the opposition was always willing to talk to her to find solutions to national problems like Punjab and Assam. But Mrs Gandhi had developed a tendency to reduce every political

¹‘Srinagar Consensus’, editorial, Indian Express, 11 Oct. 1983.

²Indian Express, 16 Oct. 1983.

³Indian Express, 21 Oct. 1983.

worker to a non-entity and had succeeded in her own party. But she should not hope to succeed with opposition parties. The opposition was not committing a crime by trying to remove her party from power. "It is our national duty and political responsibility to throw away this Government by mobilising people's support because her Government has proved that it has nothing to do with people's aspirations," he said.¹

The Congress (I) has lost the will to govern, the opposition the will to dethrone it. It is not possible to cast India's political horoscope. The Congress which has served as the sun of this system is in decay. 'So long as the sun shone we could shut out worries about the future even if we realised that this was not a natural state of affairs. Now that the sun has begun to dim, there is a search for stars to light up the path for us. But all the stars that are there do not constitute a galaxy. And even if they could, a galaxy cannot provide the light nor the warmth of the sun....Dethroning the Congress was once a programme in itself, because it was the ultimate undoable. Now the nation has lost interest in doing it. The opposition parties are now merely parts, pieces, portions...and parts cannot rule over the whole of India. Up to January 1980, there was a hope that the parts might federate or fuse into a new whole; now there is the fear that the only whole organisation we have might degenerate into a part.'²

Legislative Black Market. The affair of the Moily tapes must not rest at the level of allegations and counter-allegations. Mr. Ramakrishna Hegde, has demanded a Central probe while others have called for a commission of inquiry. The need of the hour, however, is for quick, incisive action. It is not certain that Central agencies will be able to discover anything about the bribe attempt which the Karnataka police cannot unearth. They might be able to find out more about the source of the cash, some of which came from a Delhi bank. But the main issue is the offer of a bribe to an MLA to defect. Some would argue that nothing really can be done until an anti-defection law is passed, is this so? Any attempt to bribe an MLA, who is a public servant, would seem to be illegal. The Karnataka Government should therefore examine whether it is possible to launch a prosecution on these grounds. Mr Moily claims that somebody has mimicked his voice on the tapes, and should therefore welcome an investigation to clear his name. If the existing law is not wide enough to

¹Indian Express, 22 Oct. 1983.

²Rajendra Mathur in Times of India, 28 Aug. 1983.

permit prosecution there might be a case for a suitable amendment. This need not involve anti-defection legislation on which there are differences between political parties.

'The criminal aspect apart, however, there is a political aspect which should equally not be ignored. What is legal in the narrow, technical sense, may not be legitimate. And in any democratic polity legitimacy is supremely important. Mr Hegde has alleged that the Rs. 2 lakh offered to Mr Byre Gowda came from a Rs 3 crore slush fund at the disposal of the Karnataka Congress (I) for purchasing defectors. This is a most serious charge and merits investigation. There is also the theory lately advanced by Mr. C.M. Stephen Congress (I) General Secretary, that while weaning away members of a majority party like the AIADMK in Tamil Nadu is impermissible, the supporters of a minority government, such as the Janata regime in Karnataka, are fair game and the Opposition has a right to win them over and topple the Government. If individual members or parties cross the floor for political or ideological reasons that would certainly be legitimate. Not so, if they are offered inducements and have no other cause to defect.'¹

*Punjab Problem.*² How does one reconcile this silent religious harmony with the terrorist slayings in the Punjab? The Akali hit list exists, it is no invention. Piara Singh, the police sub-inspector who was attacked and killed in the train, had been part of the police operation that had gunned down the Sikh hijacker, Museebat Singh, at Amritsar. D.R. Bhatti, Ludhiana's senior superintendent of police, had once arrested Sant Bhindrenwala. In the last two years, Akali extremists have killed over 80 people, hijacked two planes, looted two armouries and several banks, thrown grenades at Punjab Ministers and planted time-bombs in public places. The terrorists number around 50 or 60, policemen in the Punjab say, but not one has been caught. So the question arises, why didn't Mrs. Gandhi flush them out of the gurdwaras when they first turned violent?³

As dusk falls, the bazaars empty and the roads are silent, save for the armed patrols. At cinema halls, filmgoers buy tickets for seats near the exit, just in case someone lobbs a grenade down the aisle. Fear runs high, both among the Hindus in the cities and the Sikhs in the countryside. One can smell the tension in the Punjab. Cautions

¹Editorial, Indian Express, 22 Nov. 1983.

²Chapter 22—Region and Politics.

³Arvind Kala, 'On the Edge of a Precipice', Indian Express, 16 Oct. 1983.

Governor B.D. Pande: "The situation calls for very great restraint". And warns Sant Jarnail Singh Bhindrenwala: "If the police enter the Golden Temple, it will serve as the stone of the foundation of Khalistan" (Gist of an interview).¹

The Union Government has made its position on the Akali demands abundantly clear and put the entire blame on the Akali leadership for ending the negotiations. However, the Government has reiterated that doors for negotiations with the Akalis are still open and expressed the hope that the Akali Dal will reconsider its decision. In a lengthy statement the Union Home Minister, P.C. Sethi, expressed the Government's willingness to refer the territorial and river waters' disputes between Punjab and Haryana to separate tribunals. He asked the Akali Dal to give an undertaking that the Golden Temple and other Sikh shrines would not be permitted to be used to store arms or shelter criminals. Addressing the concluding function of a two-day meeting of "clean-hearted" Sikhs convened by him at Guru Nanak Niwas to discuss religious issues, Sant Bhindrenwala said the Sikh masses would be satisfied only with enactment of a separate personal law for them and recognition of "Sikhs as a separate nation". He added that fulfilment of the Anandpur Sahib resolution was only a "preliminary stage" and not the "destination which should be determined by the Sikh Panth."²

The imposition of President's rule in Punjab on 6 October was welcomed by all political parties and other organisations, but they urged the Centre to find an early solution to the problem. However, Akali Dal President, Harchand Singh Longowal said he feared that under the pretext of law and order situation, the Centre was bent upon making an entry into the Golden Temple complex. Sant Jarnail Singh Bhindrenwala called upon the Sikhs not to get panicky as the Sikhs had seen the worst period of repression during the Mughal rule. He charged the Centre with showing discrimination against the Sikhs. Two separate ordinances were issued by the President declaring Punjab and the Union Territory of Chandigarh as disturbed areas. The Centre fully armed itself to overhaul the Punjab administration and check the violence and extremist activities in the State. The West Bengal Governor, B.D. Pande, replaced A.P. Sharma as Governor of Punjab.

¹B.K. Chum, 'Punjab: A Powdered Keg Explodes', Indian Express, 6 Nov. 1983.

²Times of India, 5 Sep. 1983.

Though Punjab has been brought under President's rule, the Assembly has merely been suspended, not dissolved. While this might appear prudent and suggest no more than a brief interregnum, fresh elections and a fresh mandate reflecting the popular will could be a more effective option. President's rule cannot be an end in itself. The logic of the path adopted is that the objectives both of firm government that will restore a sense of security to the people and the search for a political settlement will be vigorously pursued. The Government has declared the State a disturbed area. This vests the administration with wide powers to take suitable action including search and seizure. The problem is by no means one of law and order alone. The killings and confrontation are symptomatic of a growing political divide based on communal estrangement. An immediate popular reaction like staging a Punjab bandh was predictable ; but all concerned should be exceedingly cautious about permitting hotheads on either side to exploit the situation and make matters worse. There is also need all round, whatever the past, to rise above party and factional considerations and to view the problem in a national perspective. The Government must seek the co-operation of the opposition which should be prepared to respond constructively.¹

*Minorities Panel Report*². The high-powered panel in its report submitted to the Home Minister on 14 June, recommended the creation of a permanent machinery to ensure faithful implementation of the safeguards for minorities and to ensure that they derived the benefits from various concessions available to them. The panel pointed out there was no need for any constitutional amendment in order to better the lot of the minorities as this could be achieved within the existing constitutional frame-work. The panel found that the minority communities had not been taking advantage of the facilities such as free (primary, secondary and university) education, business opportunities and concessional bank loans needed to improve their lot. The sample survey, done by the panel, showed that the conditions of minority communities, principally Muslims, were not good and that these were lagging further into ignorance and poverty, and the minorities representation in public as well as private sector was not adequate and required improvement.

Scholars for Review of Islamic Laws. Muslim scholars, intellectuals and lawyers in various countries have demanded a review of the

¹'Beyond President's Rule', editorial, Indian Express 8 Oct. 1983.

²Chapter 23—Religion and Politics.

Islamic laws and regulations in force in about 20 countries. That the Islamic laws need modification in view of the socio-economic changes the world over, according to reports. Based on Shariat, Islamic laws have not been modified for more than 10 centuries. The laws on family planning, earning of interest, status of women in society, divorce and other issues have generated controversy in the Muslim world, resulting in frequent clashes.

The suggestion to revamp the law after "meticulous studies" has the support of King Fahd of Saudi Arabia and some leading international Islamic theologians' Conference in Riyadh, Crescent (a journal) reports. He had emphasised that Islam abhorred fanaticism and said that members of all sects should be included in the body to make the laws more comprehensive and lucid. The Koran and Prophet Mohammed have suggested convening an "Ijtihad" (conference) for changing Islamic laws on material affairs to bring them in tune with the changing needs and evolution of society. Now the scholars feel that a multitude of problems, which Muslims are facing today, remains unsolved because of the ambiguity of such laws. Theologians can help formulate rules to solve such problems in accordance with Sunnah and Hadith.¹

Non-Alignment on the Move. The Seventh Non-Aligned Summit Conference which started on 6 March, was attended by Kings, Presidents, and Prime Ministers of about 100 non-aligned countries. Prime Minister Smt. Indira Gandhi, who was elected Chairman of the Summit, affirmed each nation's right to have its own resources and policies and an equal voice in the operation of international situation. She stated that non-aligned nations were of one mind in their support for the brave, homeless and much-harassed Palestinian people and independence seeking South African people. She hoped that apartheid in South Africa and other forms of racial discrimination would be fought by the whole world. She also focussed the attention of the members to the debt burden which the poor countries were undergoing.

'This scenario calls for dynamism in India's approach to the practice of non-alignment. This is not merely because it has been the historical fact of being the pioneer of non-alignment, a special and responsible role to play but also by virtue of its present position as a "middle power" the ability to inject fresh blood into the Non-aligned Movement. India's economic progress and its potential clearly

¹Indian Express, 14 June 1983.

precludes it from either a client status or from occupying a back-seat in the world. Politically and socially aware and economically and technologically better placed, it must accelerate its own contribution—financial, technical and manpower—to its less fortunate colleagues in the movement. This would in the process provide a link between the technologically advanced nations and the developing nations of the South. It is only when India fulfils these requirements that its contribution to the success of non-alignment would be complete...To wit, the challenges are many, the prospects grim, the time short, yet the need for non-alignment is enormous. Its continued relevance is best epitomised in the words of its founder-member, Jawaharlal Nehru, "if you give it up, there is no other policy for (the non-aligned) to adopt with the slightest advantage."¹

*Indo-Pak Relations*². Since its independence India has wanted countries in the region to keep external power out and shape their destinies according to their own genius and requirements on the one hand and in co-operation with one another. Militarisation of Pakistan and its Islamic pretensions are of concern to us. In his announcements Gen. Zia has been quite friendly, but he has brought back the United States as an active force in the region. External Affairs Minister on 25 August, watched with uneasiness and distress the recent happenings in Pakistan and sufferings of the people who have been demanding restoration of democracy in that country.'

Addressing a meeting of the Congress (I) Parliamentary Party on 26 August, Mrs. Gandhi said India had never interfered in the external affairs of another country. 'But we have always condemned inhuman treatment meted out to people irrespective of whether such acts take place in our own nation or outside...We want that there should be democracy everywhere. There is nothing bad or improper in our wishing so, she added. But former Prime Minister Charan Singh sprang a surprise when he came out as a champion of the Zia regime, which he had recently charged with sending Pakistanis into Punjab for fomenting Hindu-Sikh trouble.

'On three points there can be little scope for doubt. First, the issue has been joined between the forces of liberty and the military junta, especially the present one wanting to brutalise the people by imposing on them not only martial law but also forms of punishment which must offend the susceptibilities of any modern person, this

¹Parvathi Vasudevan 'Prospects for Non-alignment : India's Role', India Quarterly, Jan.-March 1983, pp. 57-60.

²Chapter 28—External Relations and an Assessment of Foreign Policy.

country owes it to itself to come out in favour of the former. Secondly, Mrs. Gandhi has done precisely that on behalf of this country, her government's laboured explanations notwithstanding....But judging from the performance of Mr. Charan Singh and Mr. Vajpayee, she might not have been too wrong in drawing the conclusion that opposition leaders would not rise to the occasion. Thirdly, Pakistanis on both sides of the fence have seen Mrs. Gandhi's statement to be what it is—moral support for those who are risking their lives for the sake of liberty. While Islamabad has condemned it, opposition leaders in London have welcomed it.¹

India's concern and anguish over the tragic events in Pakistan, has been interpreted there as blatant interference in the internal affairs of a tormented neighbour. A section of the press there has mounted a fresh campaign against the 'big brother' attitude of the Congress (I) rulers. Addressing Congress (I) Party workers at the Maharashtra Pradesh Congress (I) Committee office, Mrs. Gandhi asserted that India fully believed in non-alignment. But that did not mean "we should keep our mouth shut at the happenings in the neighbouring countries. "We want the neighbouring countries to be strong as it will not only help them but will also be good for us." Mrs Gandhi said. She added : "We have never interfered with the internal developments of any country in the past and we will not do so now." India would, however, continue to raise its voice against injustice in any part of the world, she said.

'Pakistan will not allow any temporary setback in Indo-Pakistan ties owing to current difficulties caused by Indian "interference" in its internal affairs to come in the way of the on-going process of normalisation of relations between the two countries, according to President Zia-ul-Haq. In a relaxed interview in his Chief of the Army Staff residence at Rawalpindi on 23 October, President Zia said that the administration was over the hump as far as the intensity of the MRD agitation was concerned though this might continue in a low key until the elections presently scheduled for March 1985. It was led by Mr. (Ghulam Mustafa) Jatoi (of the PPP in Sind) and aimed at regaining political power in the guise of a movement for the restoration of democracy. The others in the MRD "did not know this or could not care properly." The President expected that Indo-Pakistan talks would be resumed shortly.²

¹'India Cannot Be Neutral', Times of India, 1 Sep. 1983.

²B.G. Verghese, 'Indo-Pak Times not to be Vitiating, says Zila,' Indian Express, 2 Nov. 1983.

Relations with Sri Lanka. 'The British press, by and large said irrespective of what began the fight, the atmosphere in the island state was sufficiently hate-filled and tense. Ward reported in the Daily Telegraph of 27 July that Mr. Jayewardene missed his chance for settling the Tamil issues five years ago. Because of this, an intense polarisation of political-viewpoint had occurred. "There are virtually no grounds left for a negotiated settlement because beneath the flare-up lies deep-rooted sentiment among minority Tamils that they are being treated as second class citizens," Mr. Ward added. The British press was unanimous in its opinion that Sri Lankan authorities were unable to maintain law and order—either deliberately or otherwise.

India's concern over the fate of more than a million-and-a-half of Tamils settled there is not merely academic. The outrages and atrocities perpetrated on this community have sent shock waves all over India and especially in Tamil Nadu. President Jayewardene, instead of showing any sympathy and compassion for the troubled minority, has blamed the Leftists for what he described as a planned uprising with the help of an indisciplined army to over-throw his Government. He has gone to the length of accusing India of harbouring and helping Tamil terrorists from that country. He has said brazenly that the South Indian States are creating more problems for him than the Tamil United Liberation Front (TULF).

'What should India do at this stage? Bluster and sabre-rattling will not get us anywhere. India cannot possibly countenance any attempt at secession anywhere. She is fighting this menace at home. It is sheer nonsense to talk of a naval blockade of Sri Lanka. Any such move will not only be unrealistic but very dangerous. It will immediately entangle India in a conflict with super powers and will give the United States a very valid excuse for establishing and strengthening a naval base in Tricomalee. Besides, it will provide Pakistan with a readymade justification for interfering in India's affairs whenever there is any communal rioting on big scale in this country. At the same time India cannot very well ignore the repercussions of the massacre and systematic persecution of the Tamils on the millions of Indians in Tamil Nadu and elsewhere. This is where diplomacy with firmness and tact comes in.' President Jayewardene sent his brother as a personal envoy to India for talks. He might have had no great official standing but he was known to be a close confidant of the President. If the talks were to prove fruitful, there must have been a certain responsiveness on both sides. 'The present Sri Lanka Government should be

made to realise that while there can be no compromise with the forces of secession, regional interests and minority rights should receive due consideration as has been accorded in this country.¹

G. Parthasarathy, Prime Minister's special envoy said on 10 November that positive ideas for a political settlement of the Tamils issue had emerged in the course of his discussions with Sri Lanka leaders. "This will centre on the creation of regional councils with appropriate powers within the framework of an United Sri Lanka."

Fourth Round of Sino-Indian Talks. The fourth round of Sino-Indian border talks concluded with what has been officially assessed as "reasonable progress". "This is encouraging. Nobody could expect an instant solution to so complex a problem and what is under discussion at the moment is a series of principles advocated by either side as a basis for settlement. This may seem to avoid the substantive issue of reconciling conflicting boundary claims but is obviously a necessary preliminary in defining a framework'. Basically India has been advocating a sector-by-sector approach, taking into account the different circumstances pertaining to the Arunachal border, the middle sector, embracing the UP and Himachal region, and the Laddakh sector. The Chinese on the other hand, have put forward a package plan that would seek to settle the matter on the basis of "actual realities" on the ground in Arunachal and Laddakh, with China accepting India's claim line in the former in exchange for India's acceptance of the Chinese claim in Laddakh with some adjustments in China's favour as a result of the 1962 war. 'Both sides have shown greater flexibility than before in being willing to consider the other's position and have apparently agreed that a settlement should take into account historical evidence, custom and tradition, and the desirability of avoiding the use of force in acquiring territory. There is some difference in relying on geographical principles such as watersheds. The fact that the talks were extended by a day suggests a mutual anxiety to narrow if not close the gap.'"

*INSAT-IB.*³ India's operation multi-purpose satellite, launched on board the US space shuttle on 30 August 1983, successfully sent telemetry data to the master control facility at Hassan. A trend-setter in satellite design, it may turn out to be a life-saver for the cyclone prone eastern coastal areas, as it will test a novel system for sending disaster warnings directly to areas likely to be affected. The television

¹'The Sri Lanka Nettle', editorial, The Pioneer, 11 Aug. 1983.

²'Reasonable Progress', editorial, Indian Express, 2 Nov. 1983.

³Chapter 29—Retrospect and Prospect.

component aboard INSAT-IB will give a big boost to the reach of Door Darshan. As many as 123 new television transmitters are to be brought into operation by the end of 1984, all of which will use the satellite for their programme feed. The Posts and Telegraphs Department will soon dispense with the service of INTEL-SAT satellite leased to it on the failure of the INSAT-IA in September 1982 to link up the main remote areas. In the second half of October next all the 28 field stations for tele-communication will switch over from INTEL-SAT to INSAT-IB.¹

Outlook for Indian Economy Hopeful R.B.I. The Indian economy which had suffered "a serious setback" during the year 1983 which ended on 1 June, is likely to put an encouraging show in the current year, according to assessment by the Reserve Bank of India. In its latest annual report (for the year 1982-83), the Bank has visualised that the economic outlook for the current year ending June 1984 is one of distinct improvement in agriculture. Industrial production can also be expected to show better growth with an improvement in demand consequent on increase in agricultural production and with some of the short-run features, such as the mis-matching of supply and demand working themselves out. However, care has to be taken to ensure that inadequacy of infra-structure does not emerge as a constraint on output. "All in all, 1983-84 promises to be a year of substantial improvement", the report forecasts.²

Padyara for Change. Janata Party president Chandra Shekher ended a remarkable padyatra that took him through nine States from Kanyakumari to Delhi over the past six months. As a party leader he was dispirited about the shallowness and futility of current party politics and set out on a voyage of self-discovery, searching for a more relevant politics. 'The question is, what next? Mr. Chandra Shekhar has certainly gained recognition and will probably emerge as a more authentic national figure than before. A large public meeting is planned to welcome him in Delhi. But what will this mean beyond an accolade for this unique walkathon? Mr. Chandra Shekhar has himself confessed that he does not know the answer. He is still searching. Perhaps what he has gained most is an understanding of and an empathy for the last Indian, somewhat in the Gandhian fashion.'

The best training would be through action to translate some of Mr. Chandra Shekher's new perceptions into reality. He traversed

¹Pioneer, 31 Aug. 1983.

²Indian Express, 14 Sep. 1983.

some of the region through which the newly-inaugurated Telugu-Ganga is to pass to take Krishna waters from the Srisallam reservoir to Madras. By conventional yardsticks this rural/urban people-oriented project is estimated to cost roughly Rs. 750 crores and take almost seven years to complete. Would it be possible for Mr. Chandra Shekhar to mobilise the support of the Andhra and Tamil Nadu Governments and to raise a massive voluntary labour force through a string of panchayats along the canal alignment, with youth and professional support, to dig the canal in four or five years. If such a programme were launched it would inspire similar efforts, not necessarily of the same magnitude, in other parts of the country. This would be a human approach to planning from below and would encourage decentralisation of power and create grassroot organisations willing and able to accept and exercise such power responsibly and effectively. Such a programme does not need to be taken up on party lines. It should be open to all to join and participate along with the State and Central Governments. If this kind of vision and action emerges as the fruit of the padyatra, it could truly be a new and much-wanted dimension to Indian politics.'

Addressing a public meeting held at the Ramlila grounds in Delhi on the conclusion of his 4,100 km padyatra, Mr. Shekhar said that each village should have at least three educated persons to ensure that each village gets potable water within three years ; ensure that basic health facilities are made available especially for nursing and expectant mothers ; create awareness about the need to provide education to every child ; ensure justice to the oppressed minorities and weaker sections and to weave communal integration in the social system of the region. "The experience of the Bharat Yatra has made me question the very relevance of the present socio-economic, political and administrative system to the life of the large majority of the Indian population," Mr. Shekhar said.¹

¹India n Express, 26 June 1983.

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